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Letter dated 23 May 2013 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Tribunal for the Former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I should be grateful if you would transmit these assessments to the members of the Security Council.

(*Signed*) Theodor **Meron**
President

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Annex I

[Original: English and French]

Assessment and report of Judge Theodor Meron, President of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004), and covering the period from 16 November 2012 to 23 May 2013

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1. The present report is submitted pursuant to Security Council resolution 1534 (2004), adopted on 26 March 2004, in which the Council, in paragraph 6, requested the International Tribunal for the Former Yugoslavia to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the completion strategy of the Tribunal, explaining what measures have been taken to implement the completion strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower rank accused to competent national jurisdictions.[1]

2. This report also includes a summary of the measures that the Tribunal is undertaking to ensure a smooth transition to the International Residual Mechanism for Criminal Tribunals.

I. Introduction

3. At the close of the reporting period, 12 individuals are on trial and 13 are in appeal proceedings. Following the arrests of Ratko Mladić and Goran Hadžić in 2011, there are no outstanding fugitives. To date, the Tribunal has concluded proceedings against 136 of the 161 individuals indicted. The Tribunal anticipates concluding all trials during 2013, except for those of Radovan Karadžić, Ratko Mladić and Goran Hadžić, who were arrested later than the other accused.

4. During the reporting period, trial proceedings and drafting of trial judgements were under way in nine cases. The continued progress in the 14 trial and appeal cases under way during the reporting period was made possible by the assignment of judges and staff to multiple cases.[2] Three trial judgements, two appeal judgements and one contempt appeal judgement were rendered. Scheduling orders setting the dates of delivery for three additional trial judgements were filed during the reporting period.

5. Appeals from five trial judgements involving 13 appellants are currently pending before the Appeals Chamber. In addition, the Appeals Chamber is seized of one appeal from a judgement of acquittal entered after the close of the prosecution's case under the aegis of rule 98 bis of the Rules of Procedure and Evidence of the Tribunal. The judges of the Appeals Chamber also remained fully engaged in hearing appeals from trial judgements of the International Criminal Tribunal for Rwanda, rendering one appeal judgement and hearing oral arguments in two additional cases during the reporting period.

6. The large number of judgements rendered during the reporting period demonstrates the Tribunal's success in completing its mandate. However, significant challenges remain as the Tribunal conducts its final trials and appeals. As a general

[1] The present report should be read in conjunction with the previous 18 reports submitted pursuant to Security Council resolution 1534 (2004): S/2004/420 of 24 May 2004; S/2004/897 of 23 November 2004; S/2005/343 of 25 May 2005; S/2005/781 of 14 December 2005; S/2006/353 of 31 May 2006; S/2006/898 of 16 November 2006; S/2007/283 of 16 May 2007; S/2007/663 of 12 November 2007; S/2008/326 of 14 May 2008; S/2008/729 of 24 November 2008; S/2009/252 of 18 May 2009; S/2009/589 of 13 November 2009; S/2010/270 of 1 June 2010; S/2010/588 of 19 November 2010; S/2011/316 of 18 May 2011; S/2011/716 of 16 November 2011; S/2012/354 of 23 May 2012; and S/2012/847 of 19 November 2012. Except where otherwise noted, this report contains information accurate at 15 May 2013.

[2] Where a case was in both trial and appeal stages, it has been counted only once.

matter, the Tribunal's trials and appeals continue to be affected by the loss of highly experienced staff members. This challenge has the potential to delay the judgement completion dates set out in the present report.

7. In addition, as the Tribunal moves towards the completion of its mandate, its judicial activity centres increasingly on appeals, sharply increasing the workload of the Appeals Chamber. The Tribunal foresaw and planned for the shift from trial to appeal work by proposing the redeployment of four permanent trial judges to the Appeals Chamber, an approach that was endorsed by the Security Council in its resolution 1877 (2009). However, owing to the late arrest of certain accused, the Tribunal has not, to date, been able to redeploy any Tribunal trial judges to the Appeals Chamber. It is currently anticipated that only Judge Antonetti will be available for redeployment following the delivery of the judgement in the *Šešelj* case in October 2013. The multitude of cases being assigned to each Appeals Chamber judge, along with the complexity of the appeals, particularly those involving multiple accused, will impact the ability of the Appeals Chamber to complete its work as expeditiously as possible. This matter is the subject of ongoing consideration by the Security Council Informal Working Group on International Tribunals.

8. Effective 31 May 2013, Appeals Chamber Judge Andrésia Vaz is resigning from the Tribunal. The President of the Tribunal would welcome a replacement for Judge Vaz, since her departure will increase the already considerable workload of Appeals Chamber judges.

9. The Tribunal has completed transfers of low- and mid-level accused from its trial docket in accordance with Security Council resolution 1503 (2003).

10. During the reporting period, the Tribunal undertook a variety of initiatives aimed at providing assistance and support to victims and pursued a number of legacy and capacity-building projects. The outreach programme continued its efforts to bring the work of the Tribunal closer to communities in the former Yugoslavia. The Tribunal also worked diligently to ensure a smooth transition to the International Residual Mechanism for Criminal Tribunals.

II. Measures taken to implement the completion strategy

11. Over the past few years, the Tribunal has altered its procedures in a number of ways in order to expedite its work. These reforms have included expediting translations; distributing work among judges more equally by placing ad litem judges on benches hearing contempt cases not ancillary to proceedings to which they were assigned; beginning preparations for judgement drafting during trials at an early stage; obtaining a waiver from the Department of Management of the United Nations Secretariat allowing the Tribunal to hire otherwise qualified interns directly, without having to wait six months following the termination of their internship; and maintaining rosters of qualified applicants to ensure that departing staff can be replaced promptly.

12. In addition to those efforts, the working group on trial and appeal schedules closely monitors the progress of trials and appeals, identifying obstacles that could delay judicial proceedings and allowing best practices to be shared. Complementing those efforts, the President conducts individual meetings with drafting team leaders

and judges, seeking ways he can best assist in overcoming obstacles to the expeditious completion of trials and appeals.

13. As additional illustration of the steps taken by the Chambers to guarantee that proceedings are conducted in a manner that is both expeditious and fair, brief summaries of cases currently before the Tribunal are provided below. Where previously reported projections for judgement delivery have been revised, the factors that led to that revision are set out.

A. Trial proceedings

14. The trial judgement in the case of *Prosecutor v. Ramush Haradinaj et al. (Case No. IT-04-84bis-T)* was delivered on 29 November 2012. All of the accused were fully acquitted.

15. The trial judgement in the case of *Prosecutor v. Zdravko Tolimir* was delivered on 12 December 2012. Mr. Tolimir was found guilty of genocide and conspiracy to commit genocide; extermination, persecutions and inhumane acts through forcible transfer as crimes against humanity; and murder as a violation of the laws or customs of war. He was sentenced to life imprisonment.

16. The trial judgement in the case of *Prosecutor v. Mićo Stanišić and Stojan Župljanin* was delivered on 27 March 2013. Mr. Stanišić was found guilty of persecution as a crime against humanity and of murder and torture as violations of the laws or customs of war. He was sentenced to 22 years of imprisonment. Mr. Župljanin was found guilty of persecution and extermination as crimes against humanity and of murder and torture as violations of the laws or customs of war. He was sentenced to 22 years of imprisonment.

17. In the case of *Prosecutor v. Jadranko Prlić et al.*, a scheduling order was issued announcing that the trial judgement would be delivered on 29 May 2013. This delivery date is two months later than previously forecast.

18. Delay in delivery of the trial judgement is attributable to two factors. The first factor is the workload of the judges and legal staff. Several judges and the former senior legal officer on the case were concurrently assigned to other trials and therefore prevented from concentrating all of their efforts on judgement drafting for this case. In particular, during the reporting period, Presiding Judge Jean-Claude Antonetti also served as the presiding judge on the *Šešelj* trial bench, while Judge Antoine Kesia-Mbe Mindua also serves as a judge on the *Hadži* trial bench and served on the *Tolimir* trial bench. Second, staff attrition in this case has been particularly severe. Since the beginning of the trial, there have been four different senior legal officers assigned to the case in succession, as well as five different legal officers. In May 2012, a newly recruited associate legal officer joined the team and needed time to become familiar with the extensive trial record. In February 2013, the senior legal officer, who had worked on the *Prlić et al.* case for nearly six years, resigned. This resulted in a significant increase in the team's workload at the most critical stage of the drafting process.

19. The current expected delivery date in this case is based on the advanced stage of deliberations and judgement drafting.

20. In the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, a scheduling order was issued announcing that the trial judgement would be delivered on 30 May 2013. This delivery date is two months later than previously forecast.

21. Delay in delivery of the trial judgement is due to the extensive rebuttal and rejoinder motions filed by the parties, along with certain unexpected complexities that emerged during deliberations.

22. The current expected delivery date for the trial judgement is based on the advanced stages of deliberations and judgement drafting.

23. In the case of *Prosecutor v. Vojislav Šešelj*, a scheduling order was issued announcing that the trial judgement would be delivered on 30 October 2013. This delivery date is three months later than previously forecast.

24. Delay in delivery of the trial judgement is due to a number of factors. These include staff attrition, in particular the departure in February 2013 of the senior legal officer assigned to this case. Although the Tribunal has recruited a replacement, this individual has required several months to become fully familiar with the case. Similarly, a P-3 legal officer departed in November 2012. The replacement has required several months to become fully familiar with relevant facts of the trial record. In addition, all judges on the bench concurrently served on other trials. In particular, during the reporting period, Presiding Judge Antonetti also served as the presiding judge on the *Prlić et al.* trial bench; Judge Frederik Harhoff served on the *Stanišić and Župljanin* trial bench; and Judge Flavia Lattanzi served as the reserve judge on the *Karadžić* trial bench.

25. The judges and legal support team have taken a variety of measures to expedite the preparation of the trial judgement, including the reassignment of additional legal staff members to assist in judgement drafting.

26. In the case of *Prosecutor v. Goran Hadžić*, the accused is charged with 14 counts of crimes against humanity and violations of the laws or customs of war. The trial commenced on 16 October 2012 and the trial judgement is expected in December 2015, as previously forecast.

27. In the case of *Prosecutor v. Radovan Karadžić*, the accused is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war. The trial's projected time frame has been revised, and the trial judgement is now expected in July 2015, seven months later than previously anticipated.

28. Delay in the expected delivery date of the trial judgement is due to a number of factors. In particular, the prosecution has used more time on cross-examination than expected. Because the Defence witnesses' testimony has lasted longer than anticipated, the turnover of defence witnesses and the pace of the trial have led, on occasion, to courtroom time being lost due to difficulties in witness scheduling. In addition, administrative and non-testimony-related matters arising from the case are also taking more time than was originally forecast, reducing the amount of courtroom time that can be devoted to hearing evidence. More broadly, the complexity and volume of ancillary litigation taking place during the defence phase of the case has made it difficult for the legal drafting team to make as much progress in judgement preparation as expected. Lastly, given the complexity of the case, the Trial Chamber considers that the parties will require more time to prepare their final briefs and closing arguments than originally estimated.

29. The judges and legal support team are taking a variety of measures to expedite the preparation of the trial judgement, including the reassignment of two additional staff members to join the team. In addition, the Trial Chamber is closely monitoring time limits imposed on cross-examination to ensure that they are adhered to.

30. In the case of *Prosecutor v. Ratko Mladić*, the accused is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war. The trial judgement is expected in July 2016, as previously forecast.

31. As the above summary of ongoing trials indicates, the Tribunal will not be able to complete the trial proceedings involving Mr. Karadžić, Mr. Mladić and Mr. Hadžić by 31 December 2014, the date for completion indicated by the Security Council in its resolution 1966 (2010). In these three cases, the delayed arrests of the indicted individuals has made it impossible to meet the deadlines requested by the Security Council, despite the Tribunal's best efforts.

B. Contempt proceedings

32. The Tribunal's trial schedule continued to be disrupted by the need to prosecute alleged acts of contempt; however, the Tribunal is taking what measures it can to ensure that all contempt cases are concluded as quickly as possible without affecting ongoing trials.

33. The contempt appeal judgement in the case of *Prosecutor v. Vojislav Šešelj (Case No. IT-03-67-R77.3-A)* was delivered on 28 November 2012, granting two of the amicus Prosecutor's grounds of appeal and dismissing two other grounds of appeal filed by the amicus Prosecutor. The contempt appeal judgement affirmed Mr. Šešelj's sentence of 18 months of imprisonment.

34. In the case against *Radislav Krstić (Case No. IT-95-5/18-R77.3)*, the Trial Chamber is prosecuting Mr. Krstić for his refusal to testify in the *Karadžić* case. The Trial Chamber issued an order in lieu of an indictment on 27 March 2013, and Mr. Krstić's initial appearance took place on 4 April 2013. The trial is scheduled to commence on 28 May 2013.

35. In the case of *Prosecutor v. Vojislav Šešelj (Case No. IT-03-67-R77.4-A)*, the projected time frame of the case has been revised and the contempt appeal judgement is now expected in June 2013, five months later than previously anticipated.

36. Delay in delivery of the contempt appeal judgement is a function of the deliberation process of the judges.

37. The judges and legal support team are taking a variety of measures to minimize the delays in the preparation of the contempt appeal judgement, including prioritizing the speedy review and implementation of judges' comments.

C. Appeal proceedings

38. The appeal judgement in the case of *Prosecutor v. Milan Lukić and Sredoje Lukić* was delivered on 4 December 2012. The appeal judgement granted certain grounds of appeal raised by Milan Lukić and Sredoje Lukić, and dismissed or declared moot the prosecution's grounds of appeal. The Appeals Chamber affirmed

Milan Lukić's sentence of life imprisonment, and reduced Sredoje Lukić's sentence from 30 to 27 years of imprisonment.

39. The appeal judgement in the case of *Prosecutor v. Momčilo Perišić* was delivered on 28 February 2013, reversing all of Mr. Perišić's convictions.

40. In the case of *Prosecutor v. Vlastimir Đorđević*, the projected time frame for delivery of the appeal judgement has been revised and the appeal judgement is now expected in December 2013, two months later than previously anticipated. An appeal hearing was held on 13 May 2013.

41. Delay in delivery of the appeal judgement is caused by the replacement of a judge on the bench owing to her resignation from the Tribunal, the heavy workload of the Appeals Chamber judges and complexities identified during the drafting of the preparatory document.

42. The judges and legal support team are taking a variety of measures to minimize the delays in the preparation of the appeal judgement. These include the temporary reassignment of staff from other cases where their working schedules so allow.

43. In an appeal by the prosecution pursuant to rule 98 bis of the Tribunal's Rules of Procedure and Evidence in the case of *Prosecutor v. Radovan Karadžić (Case No. IT-95-5/18-AR98bis.1)*, an appeal hearing was held on 17 April 2013. Based on the complexity of the issues raised, the appeal judgement is not expected until July 2013.

44. In the case of *Prosecutor v. Vujadin Popović et al.*, the projected time frame for delivery of the appeal judgement has been revised and the appeal judgement is now expected in October 2014, three months later than previously anticipated.

45. Delay in delivery of the appeal judgement is caused by complexities in the case that require additional preparations and review by the judges prior to the appeal hearing. One unexpected complexity involved the appellant Milan Gvero. After health concerns initially precluded his participation in the case on appeal, he was subsequently found fit to participate in appellate proceedings. However, after submitting a notice of appeal and appeal brief, he passed away. The appellate proceedings were then terminated in his regard. The changing nature of Mr. Gvero's participation in the appeal repeatedly forced the drafting team to reorganize its work and resulted in multiple time-consuming alterations to the preparatory document.

46. The judges and legal support team are taking a variety of measures to expedite the preparation of the appeal judgement. These measures include coordinating the team's work on related grounds of appeal and ensuring consistency in the drafting of sections of the preparatory document; monitoring new Appeals Chamber jurisprudence and incorporating relevant developments into drafts in a timely manner; and marking references to confidential material to facilitate the protection of such material in the appeal judgement. In addition, motions for the admission of additional evidence on appeal are analysed and decided at the most appropriate stage of the case, taking into account the efficient use of staff resources. In order to pre-empt a possible organizational delay in the review of the preparatory document by the bench, the Appeals Chamber has coordinated with the Conference and Language Services Section to ensure that the French translation of the *Popović et al.* trial judgement will be available for the francophone judge on the bench.

47. In the case of *Prosecutor v. Nikola Šainović et al.*, the projected time frame for delivery of the appeal judgement is unchanged and the appeal judgement is expected in December 2013. An appeal hearing was held over several days in March 2013.

48. In the case of *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, Mr. Stanišić, Mr. Župljanin and the prosecution have filed notices of appeal. The appeal judgement is expected to be delivered in April 2015. This forecast is based on issues arising from analysis of the trial judgement and the notices of appeal, as well as comparisons to similarly sized cases. In estimating the time needed to complete this appeal, the distinct grounds and subgrounds of appeal and the need to address motions that may arise before and after the appeal hearing have been taken into account.

49. In the case of *Prosecutor v. Zdravko Tolimir*, Mr. Tolimir has filed a notice of appeal. The appeal judgement is expected to be delivered in March 2015. This forecast is based on issues arising from analysis of the trial judgement and Mr. Tolimir's notice of appeal, as well as comparisons to similarly sized cases. In estimating the time needed to complete this appeal, the distinct grounds and subgrounds of appeal, the complications inherent to judicial proceedings where an appellant is self-represented, and the need to address motions that may arise before and after the appeal hearing have been taken into account.

50. During the reporting period, the Appeals Chamber of the International Criminal Tribunal for Rwanda delivered one judgement, in the case of *Justin Mugenzi and Prosper Mugiraneza v. The Prosecutor*. The Appeals Chamber also held appeal hearings in the cases of *Augustin Ndindiliyimana et al. v. The Prosecutor* and *Grégoire Ndahimana v. The Prosecutor*.

51. Despite the Tribunal's continuing efforts, it is currently anticipated that, as forecast in both the Tribunal's report to the Security Council of November 2012 (S/2012/847) and in the appeal chart contained in enclosure VI of the present annex, the Tribunal will have difficulty in completing the appeals in the *Tolimir* and *Stanišić and Župljanin* cases and any appeals in the *Prlić et al.* case by 31 December 2014, as requested by the Security Council in its resolution 1966 (2010). Appeals in the cases of *Tolimir* and *Stanišić and Župljanin* are anticipated to be completed by March and April 2015 respectively. However, if any appeals in the multi-accused *Prlić et al.* case are filed prior to 1 July 2013, this case will fall under the jurisdiction of the Tribunal and the appeals are unlikely to be completed prior to June 2017. Accordingly, the Appeals Chamber of the Tribunal will function concurrently with the Appeals Chamber of the International Residual Mechanism for Criminal Tribunals after 31 December 2014. If an appeal from the *Prlić et al.* case comes under the jurisdiction of the Tribunal, this concurrent functioning of Appeals Chambers will continue for a substantial period of time. Appeals in the *Hadžić*, *Karadžić*, *Mladić* and *Šešelj* cases, if any, will be filed after 1 July 2013 and will therefore fall to the Residual Mechanism, pursuant to Council resolution 1966 (2010).

D. Access decisions

52. The bench constituted to decide requests for access to confidential information for use in national proceedings under rules 75 (G), 75 (H) and 75 bis of the Tribunal's Rules of Procedure and Evidence continued to function in an efficient manner, rendering four decisions during the reporting period.

III. Retention of staff

53. Staff attrition and staff shortages pose major obstacles to the expeditious completion of the Tribunal's work and have the potential to undermine other reforms. The Tribunal has taken a number of measures to address those challenges, including the use of a roster system and in-house incentives such as compensation time. However, these measures have been insufficient to prevent staff attrition.

54. The Tribunal has made specific requests for assistance in addressing staff attrition, including the creation of a United Nations-wide task force to provide opportunities for downsized Tribunal staff in other United Nations entities; the adoption of an end-of-service grant, as recommended by the International Civil Service Commission, for staff separating from the Tribunal on completion of their contracts; allowing Tribunal staff to be considered for conversion to permanent contracts; a retention incentive for staff; and the right to directly recruit interns to fill vacant P-2 posts. However, only the latter measure has been authorized.

55. The Tribunal is fully cognizant of the difficult financial circumstances facing the United Nations. However, the staff retention measures proposed by the Tribunal would cost comparatively little and would result in overall cost savings and efficiency gains. Member State support for future Tribunal proposals with respect to staff retention will be critical to ensuring that the forecasted trial and appeal completion dates contained in the present report are met.

IV. Referral of cases

56. Between 2005 and 2007, the Tribunal referred a total of eight cases, involving 13 accused of intermediate or lower rank, to national jurisdictions in accordance with Security Council resolutions 1503 (2003) and 1534 (2004). This significantly reduced the overall workload of the Tribunal, making it possible to bring the cases of the most senior leaders to trial as early as possible. The referral of these cases to national jurisdictions also aided in improving the Tribunal's relationship with national judiciaries in the former Yugoslavia and in strengthening the capacity of those jurisdictions in the prosecution of violations of international humanitarian law, thus reinforcing the rule of law in these new nations.

57. The decisions on referral of cases were made by a specially appointed referral bench, followed by appeals against the referral decisions in some cases. As a result, 10 accused were transferred to Bosnia and Herzegovina, 2 to Croatia and 1 to Serbia. Requests for the referral of four accused were denied due to the level of responsibility of the accused and the gravity of the crimes charged. No cases eligible for referral, as per the seniority criteria set by the Security Council, remain before the Tribunal.

58. With respect to the 13 persons transferred to national jurisdictions, proceedings against 12 have been concluded. The last individual, Vladimir Kovačević, was determined not fit to stand trial by the Serbian judiciary in December 2007.

V. Outreach

59. Working with a wide range of interlocutors throughout the former Yugoslavia, the outreach programme continued to deliver factual and accessible information

about the Tribunal's work. The outreach programme also worked to facilitate debate in the former Yugoslavia about the Tribunal's legacy and broader issues of transitional justice. The large number of judgements issued by the Tribunal during the reporting period served as an important context for outreach activities. The Tribunal's Media Office ensured that journalists had access to accurate, up-to-date information on judicial activities and as well as audiovisual material for use in their reports.

60. In February 2013, the Tribunal's outreach programme launched the second part of its youth information project, generously supported by the Government of Finland. Under the aegis of this project, presentations have been held in high schools and universities in Bosnia and Herzegovina and Croatia and in universities in the former Yugoslav Republic of Macedonia and Montenegro. These presentations allow the Tribunal to reach out to young people across the region and provide information about the Tribunal's mandate while increasing awareness of broader issues of transitional justice and post-conflict reconstruction. In addition, the second in a series of documentaries produced in-house by the outreach programme, "Crimes before the ICTY: Prijedor", premiered in April 2013. The documentary depicts the Tribunal's work with respect to crimes committed in the municipality of Prijedor in Bosnia and Herzegovina.

61. After the closure of the Pristina and Zagreb field offices at the end of 2012, in line with the Tribunal's completion strategy, the Tribunal's field offices in Belgrade and Sarajevo continued liaison and outreach work in their respective countries. Together, these offices organized approximately 30 outreach events. In addition, the Tribunal welcomed thousands of visitors from all over the world, including countries of the former Yugoslavia.

62. During the reporting period, the Tribunal expanded its presence on social media platforms. On average, 40 per cent of visits to its sites are from the former Yugoslavia. The Tribunal's Twitter account has continued to grow in popularity, adding hundreds of additional followers, and its YouTube channel remains popular, with over 600,000 views per year. The Tribunal's website remains a key outreach and legacy tool. During the reporting period, more than 2,000,000 pages were accessed from all regions of the world, with 21.5 per cent of views originating from the former Yugoslavia. In addition, significant Tribunal activities were reported on the Tribunal's Facebook page.

63. The outreach programme continues to face funding challenges. Resources to support the 2013-2014 programme were secured in extremis from a new European Union financing source, but this funding is guaranteed for only 12 months. These funding challenges reflect the difficulty of maintaining stable programming when funds for all outreach activities must be raised independently, separate from general funding for the Tribunal. The Tribunal's outreach programme will continue its fundraising efforts, while underlining the importance of General Assembly resolution 65/253, in which the Assembly encouraged the Secretary-General to continue to explore measures to raise voluntary resources for the outreach programme. The Tribunal calls upon States and other donors to continue and increase support for outreach activities.

VI. Victims and witnesses

64. During its 20 years of operation, the Tribunal has facilitated travel and support for over 7,650 witnesses and accompanying persons from all over the world, including diverse and remote locations within the former Yugoslavia, who have been called to appear before the Tribunal. Without the courage of these witnesses in stepping forward and giving evidence, there would be no trials and impunity would reign. Still, many witnesses have experienced a range of difficulties resulting from their testimony before the Tribunal, and the Tribunal's resources are simply incapable of meeting all of their needs. Many witnesses have already endured suffering and loss as a result of the conflicts in the former Yugoslavia and continue to require various forms of support. The Victims and Witnesses Section of the Tribunal has provided extensive logistical and psychosocial support to witnesses in The Hague and other locations, addressing diverse needs relating to age, medical conditions, psychosocial well-being and issues relating to travel and the testimony process.

65. The large number of witnesses called in the *Karadžić* trial has placed heavy demands on the operational and support services of the Victims and Witnesses Section. In addition, an increased number of detained individuals have been called to serve as witnesses in ongoing trials. Detained witnesses are either convicted by national courts or are individuals convicted by the Tribunal who are serving their sentences in various enforcement States. The legal and logistical support required to transfer detained witnesses to the Tribunal is significant and requires engagement with national authorities, immigration entities and counter-terrorism agencies.

66. As the Tribunal works towards the completion of its activities, it continues to face challenges in relation to the relocation of witnesses. In addition, as the Tribunal nears the completion of its mandate, the number of requests from national authorities pursuant to rule 75 (H) of the Tribunal's Rules of Procedure and Evidence has increased. In accordance with rule 75, the Victims and Witnesses Section is required to consult protected witnesses prior to the rescission, variation or augmentation of protective measures and file responses to the relevant Chamber. Simultaneously, the Section also receives a substantial number of requests pursuant to rule 75 (G) from parties in active trials before the Tribunal, also requiring witness consultation and filings in response. These requests for assistance and resulting consultations put a strain on the Section's resources, especially in the context of staff downsizing.

67. The Victims and Witnesses Section assisted with the development of the Residual Mechanism's framework for the provision of support and protection services to victims and witnesses, which was adopted prior to the establishment of the Arusha branch and will apply equally to The Hague branch. Preparations for the transfer of the witness protection function to the Residual Mechanism are ongoing. The Victims and Witnesses Section will ensure that witnesses and relevant State authorities are informed in that regard.

VII. Cooperation of States

68. There are no outstanding fugitives. This milestone is the result of years of effort by States and the Prosecutor to locate and transfer fugitives to the jurisdiction of the Tribunal.

VIII. Registry activities

A. Support for core judicial activities

69. The Registry's first priority during the reporting period was to provide full support to the Tribunal's ongoing judicial activities, thereby assisting the Tribunal in reaching its completion targets. The Court Management and Support Services Section, the Conference and Language Services Section, the Office for Legal Aid and Detention, the United Nations Detention Unit and the Victims and Witnesses Section all continued streamlining operations to ensure the most efficient and effective support to the judges and the Prosecutor.

B. Activities related to the International Residual Mechanism for Criminal Tribunals

70. In accordance with Security Council resolution 1966 (2010), preparations for the inauguration of the Hague branch of the Residual Mechanism on 1 July 2013 are ongoing.

71. Set out below is a summary of the work that has been or is being undertaken to prepare for the completion of the Tribunal's work and for the transfer of the Tribunal's remaining responsibilities to the Residual Mechanism.

1. Transfer of functions from the Tribunal to the Residual Mechanism

72. On 1 July 2012, the Tribunal transferred the records and archives management function to the Residual Mechanism. The Mechanism Archives and Records Section assumed responsibility for the Tribunal's central records centre, which contains approximately 600 linear metres of non-judicial records from all organs of the Tribunal.

73. In accordance with the transitional arrangements set out in annex II to Security Council resolution 1966 (2010), the Tribunal is currently preparing for the transfer to the Residual Mechanism of certain judicial and prosecutorial functions, as well as other functions of the Tribunal, including the supervision of enforcement of sentences, assistance requests by national authorities, and the protection of victims and witnesses in closed cases and in cases where a witness is relevant to judicial activities of both the Tribunal and the Residual Mechanism.

2. Regulatory framework of the Residual Mechanism

74. The Tribunal and the International Criminal Tribunal for Rwanda continued to assist the Residual Mechanism with the drafting of its regulatory framework for the provision of judicial services. The Residual Mechanism has adopted a number of practice directions, including the Practice Direction on Filings made before the Mechanism for International Criminal Tribunals and the Remuneration Policy for Persons Representing Indigent Accused in Appeals Proceedings before the Mechanism for International Criminal Tribunals. Additional practice directions and guidelines are being prepared.

75. The Tribunal's extensive involvement in the drafting process has ensured that its legal framework and practices are adequately reflected in relevant Residual

Mechanism documents. This will obviate the need for separate regulatory frameworks at the two branches of the Residual Mechanism in almost all cases, thereby economizing resources.

3. Premises and host State agreement

76. In its resolution 1966 (2010), the Security Council identified the seats of the branches of the Residual Mechanism as The Hague and Arusha. In order to realize cost savings and maximize efficiency, the branch of the Residual Mechanism in The Hague will be co-located with the Tribunal during the period of their co-existence. The Tribunal is assisting the Office of Legal Affairs of the Secretariat in negotiating an appropriate headquarters agreement with the host State and will continue assisting the Residual Mechanism in those negotiations. Until such a headquarters agreement is concluded, the Tribunal's host State agreement provisionally applies to the Hague branch of the Residual Mechanism.

4. Information security and access regime for Tribunal and Residual Mechanism records

77. The Mechanism Archives and Records Section is leading the development and implementation of record-keeping policies for the Tribunal. Since the issuance of the Secretary-General's bulletin entitled "International Criminal Tribunals: information sensitivity, classification, handling and access" (ST/SGB/2012/3), the Mechanism Archives and Records Section and the Office of the Registrar have prepared guidance documents and commenced a series of training sessions for designated Tribunal staff to ensure the efficient and effective implementation of the provisions of the bulletin.

5. Development of retention and record-keeping policies

78. The Mechanism Archives and Records Section is leading the development of a comprehensive records retention policy for the substantive records of all three organs of the Tribunal, which will be completed by 30 June 2013. In addition, it has undertaken to revise and update existing retention schedules for administrative functions.

79. The Mechanism Archives and Records Section is continuing the work necessary to implement these schedules, including the preparation of records disposition plans for Tribunal offices. Such plans have been completed for most Registry offices and for the Office of the Prosecutor.

80. The Chief Archivist of the Mechanism Archives and Records Section worked in collaboration with the Tribunal's Information Technology Services Section and other Tribunal offices to develop an e-mail policy for the Tribunal.

6. Preparation of records for migration to the Residual Mechanism

81. The Tribunal continues to work on projects to prepare its digital and hard-copy records for transfer to the Residual Mechanism. These include projects to audit key collections of digital and physical records and to improve the quality of the indexes to those collections, thus ensuring that they will be accessible and usable in the future.

82. The records disposition plans referred to above include actions to be taken by particular Tribunal offices with respect to digital and physical records before the

offices close. The Mechanism Archives and Records Section has continued to offer advice and guidance to the Tribunal as it prepares its records for transfer. During the reporting period, the Section issued standards for the preparation and transfer of records and has planned briefings for managers and training for designated staff to guide them in meeting those standards.

83. Under the leadership of the Chief Archivist of the Mechanism Archives and Records Section, a working group completed an emergency response and disaster recovery plan for the Tribunal's physical records repositories. The plan enables the Tribunal to respond to and recover from any disaster affecting its physical repositories. The Mechanism Archives and Records Section is working with the Tribunal offices responsible for physical records to coordinate the efficient and effective implementation of this plan.

7. Administrative support provided to the Residual Mechanism

84. The budget of the Residual Mechanism stipulates that administrative support services will be provided by the Tribunal and the International Criminal Tribunal for Rwanda. Accordingly, the Tribunal has been working in close cooperation with the International Criminal Tribunal for Rwanda to ensure that both branches of the Residual Mechanism are provided with effective administrative services throughout the 2012-2013 biennium.

85. The Tribunal's Human Resources Section continues to administer all Inspira recruitments for professional posts for the Residual Mechanism. To date, more than 50 staff members have been recruited, located in The Hague, Arusha and Kigali. In addition, the Human Resources Section is preparing for the recruitment of additional staff members for the branch in The Hague, in preparation for its commencement on 1 July 2013.

86. The Tribunal's information technology services have devoted significant time and effort to developing proposals for the Residual Mechanism information technology systems and infrastructure. The Finance Sections of the Tribunal and the International Criminal Tribunal for Rwanda have worked to identify practices and methods for Residual Mechanism accounting and finance arrangements. The General Services Sections have identified appropriate office space for Residual Mechanism staff and are providing travel, visa, mailing and transportation services.

87. The Tribunal continues to provide the branch in The Hague with administrative support services at no cost. It also continues to provide the required judicial support services at no cost, including staffing costs related to court management support, language services, detention services and witness protection services.

88. The use of the existing staff and resources of the Tribunal and the International Criminal Tribunal for Rwanda will allow the branch in The Hague to operate efficiently while minimizing staff funding requirements and general operating expenses.

C. Budget for 2014-2015

89. The Tribunal, the International Criminal Tribunal for Rwanda and the Residual Mechanism are working together to prepare the budgets for the 2014-2015 biennium. These will appropriately reflect the distribution of functions among the

three bodies, maximizing economies of scale while fully supporting both the Residual Mechanism as it is being established and the Tribunal and the International Criminal Tribunal for Rwanda as they downsize.

D. Downsizing

90. The downsizing process continues to be implemented. During the current biennium, the Tribunal expects to abolish 120 posts in line with the trial and appeal schedule. Using the comparative review process, staff members are placed against specific posts selected for downsizing. Staff members' contract validity dates are synchronized to the dates set for the abolition of their posts. The comparative review process for post reductions in the current biennium was completed in 2011. The Tribunal is now preparing for the comparative review process for the 2014-2015 biennium. By conducting this exercise as early as possible, it has been possible to provide staff members with the maximum contractual security that prudent financial planning will permit. The Office of Internal Oversight Services has indicated that it considers the Tribunal's downsizing process to be best practice in leadership of a change process.

E. Enforcement of sentences

91. The Tribunal has entered into framework or ad hoc agreements on the enforcement of sentences with the following 17 States: Albania, Austria, Belgium, Denmark, Estonia, Finland, France, Germany, Italy, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Ukraine and the United Kingdom of Great Britain and Northern Ireland. The Tribunal relies in full on the cooperation of States for the enforcement of its sentences.

92. The successful completion of the Tribunal's mandate requires a sufficient number of agreements to transfer all persons whose convictions are finalized. Consequently, the Tribunal continues to pursue its efforts to secure additional agreements for the enforcement of Tribunal sentences. In its resolution 1993 (2011), the Security Council called upon States that have not concluded agreements for the enforcement of sentences to consider concluding such agreements.

F. Information centres

93. The Tribunal continued working with local authorities and international partners on the establishment of information centres in the region of the former Yugoslavia. The Mayor of Sarajevo, whose initiative has the backing of the Bosniak and Bosnian Croat members of the Presidency, has pledged space for an information centre in the renovated National Library in Sarajevo. Meanwhile, Croatian authorities informed the Tribunal that an information centre could be hosted on the premises of the University of Zagreb, should the decision be made to establish such a centre in Croatia. Both initiatives will require external funding and support.

94. In February 2013, the President of the Tribunal received official notification that the Bosnian Serb member of the Presidency supports the establishment of information centres in Sarajevo and Banja Luka. The Tribunal is awaiting further

information from Banja Luka with regard to the premises and other resources that local authorities can pledge for the project.

95. In the second half of 2013, the Tribunal plans to hold another meeting with local and international partners to begin establishing the desired information centre model, drawing upon the project proposal previously developed with project partners. Availability of adequate financial support is crucial to the success of the information centres; accordingly, the Tribunal asks the international community to support the project by providing necessary funds.

IX. Legacy and capacity-building

96. The Tribunal is planning modest events to mark the twentieth anniversary of its existence. In The Hague, King Willem-Alexander of the Netherlands will be the guest of honour at a ceremony featuring a keynote speech by Under-Secretary-General for Legal Affairs Patricia O'Brien and reflections by current and former Tribunal officials. The ceremony will be attended by Tribunal officials and representatives of the diplomatic community in The Hague. The Tribunal is also planning a conference in Sarajevo, to which representatives from the entire former Yugoslavia will be invited.

97. The Tribunal has been working with the Office of Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe on the War Crimes Justice Project, in order to launch additional activities relevant to the Tribunal's legacy in the former Yugoslavia. These activities include skills training for judges, prosecutors and defence lawyers in various States of the former Yugoslavia. In addition, the Tribunal is participating in peer-to-peer meetings for judges and witness support services in the region.

X. Conclusion

98. The large number of trial and appeal Judgements rendered during the reporting period has brought the Tribunal closer to the completion of its mandate. The activities detailed in the present report demonstrate the Tribunal's continuing commitment to completing its proceedings while maintaining the highest standards of due process. Judgements in certain cases are now expected later than previously predicted; however, the Tribunal is doing its utmost to limit and avoid such delays.

99. The Tribunal's completion of the last trials and appeals is, of course, only part of its impact. The Tribunal's success in holding to account all of the 161 individuals it indicted serves as a testament to the international community's determination that those who are charged with genocide, crimes against humanity and violations of the laws or customs of war will be held to account. More broadly, the Tribunal has played a crucial role in developing key procedural and substantive precedents in international criminal law. While the Tribunal continues to face challenges in completing its mandate, these should not obscure its fundamental successes.

100. The unwavering support of the international community, including the Security Council and individual Governments that have supported the Tribunal's judicial proceedings in a myriad of ways, has been crucial to the Tribunal's achievements. In this spirit, the Tribunal encourages the Security Council and the international community to continue supporting judicial institutions in the former Yugoslavia as they build on the work of the Tribunal.

Annex II

[Original: English and French]

Report of Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia, provided to the Security Council under paragraph 6 of Security Council resolution 1534 (2004)

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I. Overview

1. The Prosecutor of the International Tribunal for the Former Yugoslavia submits this nineteenth completion strategy report pursuant to Security Council resolution 1534 (2004), covering developments between 16 November 2012 and 15 May 2013. During this period, the Office of the Prosecutor continued to focus on three key tasks: (a) ensuring that the three remaining trials (*Karadžić*, *Mladić* and *Hadžić*) proceed efficiently and expeditiously and that the Appeals Division effectively handles all current appeals work and prepares for the intense appellate caseload that is imminent; (b) within the confines of available resources, developing additional measures to build the capacity of authorities in the former Yugoslavia to prosecute war crimes cases; and (c) preparing for the transition and transfer of functions of the Office of the Prosecutor to the International Residual Mechanism for Criminal Tribunals.

2. In this reporting period, final judgements were issued in three trials (*Haradinaj et al.*, *Tolimir* and *Stanišić and Župljanin*), three appeal cases (*Lukić and Lukić*, *Gotovina and Markač* and *Perišić*) and two contempt cases (*Rašić* and *Šešelj*). At the end of this reporting period, two cases are in the prosecution evidence presentation phase (*Hadžić* and *Mladić*); one case is in the defence evidence presentation phase (*Karadžić*); and three cases are awaiting judgement at the Trial Chamber level (*Prlić et al.*, *Šešelj* and *Stanišić and Simatović*). In addition, five cases are on appeal (*Šainović et al.*, *Stanišić and Župljanin*, *Tolimir*, *Popović et al.* and *Đorđević*) and one contempt appeal is pending (*Šešelj*).

3. The Prosecutor remains satisfied with the level of cooperation between the Office of the Prosecutor and the authorities in Bosnia and Herzegovina, Serbia and Croatia. There have also been positive developments in regional cooperation, with the long-awaited conclusion of a protocol between the Prosecutor's Offices of Bosnia and Herzegovina and Serbia on the exchange of evidence and information and discussion of a similar protocol between Bosnia and Herzegovina and Croatia, although more remains to be done to extend cooperative measures.

4. The main area of concern regarding States in the former Yugoslavia remains the capacity of national institutions to conduct effective war crimes prosecutions, particularly in Bosnia and Herzegovina. Since the Prosecutor's previous report (S/2012/847, annex II), no progress has been made in the category II cases transferred by the Office of the Prosecutor to Bosnia and Herzegovina. The lack of progress in the investigation and prosecution of other war crimes cases in Bosnia and Herzegovina is also a concern. Although many cases have been transferred from the Bosnia and Herzegovina State Court to entity-level authorities, there has been little progress in these cases and there is no prospect that the Bosnia and Herzegovina authorities will meet the deadlines prescribed in the National War Crimes Strategy for the significant backlog that remains.

5. To support building capacity for war crimes prosecutions in the former Yugoslavia and to advance the objectives of reconciliation and the rule of law in the coming decade, the Office of the Prosecutor is intensifying its efforts to transfer expertise and information to national authorities. In addition to the package of measures developed over the past few years (described more fully below), in this reporting period the Office finalized a training needs assessment for enhancing capacity for war crimes prosecutions in Bosnia and Herzegovina. The final report, prepared by the Office's expert consultant, has been shared with international partners

who also have an interest in capacity-building, in particular the Organization for Security and Cooperation in Europe (OSCE), the European Union and the United Nations Development Programme (UNDP). The Office is also preparing to disseminate the report to relevant authorities in Bosnia and Herzegovina. This constitutes an additional step towards facilitating discussion on regional training needs, and the report has been positively received by partners in the region and elsewhere. In another positive development, the Office has increased its focus on measures that will assist in building capacity for prosecuting sexual violence crimes, in particular through recording and documenting the Office's lessons learned and suggested practices concerning this category of cases. The Office has also contributed to a joint project with other international and hybrid courts and tribunals to collate lessons learned and suggested practices in prosecuting mass atrocities.

6. In preparation for the 1 July 2013 start date for the Residual Mechanism, The Hague Branch, the Office has been working with Residual Mechanism officials and personnel to prepare for the transition of functions and cases in accordance with the transitional arrangements prescribed by the Security Council. This work will intensify in the next reporting period as The Hague Branch commences operations.

II. Completion of trials and appeals

A. Overview of current challenges

7. While the Office of the Prosecutor is approaching the end of its mandate, it is busier than ever with some of the most significant cases yet prosecuted before the Tribunal. Efficiency measures honed over preceding years, in particular the use of written evidence in place of live testimony, are yielding significant savings in court time. At the same time, as a result of these measures, the three remaining trials are proceeding at an intense pace, placing considerable strain on the trial team members. The Office is continuously identifying new ways to use its resources flexibly and creatively to meet the significant demands it now faces. In addition to these existing demands, the Office has been required to carry out work needed for the creation of the Residual Mechanism Office of the Prosecutor (The Hague Branch), which has resulted in a more complex organizational framework for the Office to operate within and double-hatting duties for various staff members.

8. The expected difficulty in retaining key staff members until the completion of the Office's cases is increasingly proving to be accurate. Staff attrition in the Office continues to place unreasonable strain on the remaining staff members, who are left to cover multiple additional functions. The Office relies on its staff members to shoulder the operational uncertainties of constantly shifting trial and appeal schedules and to cope with an ever-expanding workload. At the same time, no solutions have been found to reward them or to secure their continued loyalty to the Tribunal. Some have now spent the bulk of their careers serving the Tribunal and some are approaching as many as 20 years of service with the Office. The Office of the Prosecutor recognizes the outstanding contributions of its staff members, in particular those who have shown long-term commitment to its mission, even at the considerable personal cost of foregoing more stable and enduring career paths in other systems.

B. Update on the progress of trials

1. *Prlić et al.*

9. The trial in this multi-accused case was completed in March 2011 and the judgement will be delivered on 29 May 2013.

2. *Šešelj*

10. This trial was completed on 20 March 2012. The Trial Chamber is currently deliberating and the parties await its judgement, which is scheduled for 30 October 2013.

3. (Jovica) *Stanišić and Simatović*

11. The prosecution filed its final trial brief on 14 December 2012 and closing submissions were made by the prosecution and the defence between 29 and 31 January 2013. The case was adjourned on 31 January 2013 and the judgement will be delivered on 30 May 2013.

4. *Haradinaj et al.* (retrial)

12. The Trial Chamber issued its judgement on 29 November 2012, following the retrial in this case. A newly composed Trial Chamber was asked to rehear the case on select charges because the first instance trial was characterized by serious witness intimidation. Obtaining the evidence required for a successful prosecution remained difficult and the Retrial Chamber acquitted the three accused of the counts covered by the retrial indictment, finding that there was insufficient evidence upon which to convict them. The prosecution did not appeal the judgement and the case is now closed.

5. *Karadžić*

13. The defence evidence presentation continues in the *Karadžić* case. The trial is on schedule and has been running smoothly. In the period from 16 October 2012 to 25 April 2013, Karadžić used 161 hours of the 300 hours allocated to him. In that same period, the prosecution used approximately 173 hours for cross-examination and the Chamber used approximately 35 hours for questioning witnesses and for procedural and administrative matters.

14. Karadžić has called 130 witnesses viva voce or pursuant to rules 92 bis and ter of the Tribunal's Rules of Procedure and Evidence. The evidence of an additional five witnesses has been given pursuant to rule 92 quater. The majority of Karadžić's witnesses have presented their evidence under rule 92 ter, according to which the accused relies upon the witness's written statement and the prosecution is provided an opportunity to cross-examine the witness. While this method of evidence presentation reduces the time taken for oral testimony overall, it means that the prosecution uses proportionally more court time than the accused because of the need to conduct live cross-examinations of the defence witnesses. Nevertheless, the prosecution has been able to conduct its cross-examinations efficiently, using a significantly lower proportion of time than Karadžić used for his cross-examinations during the prosecution's evidence presentation.

15. If the current pace of trial continues, the defence case will be finished before the end of 2013. Whether the Office of the Prosecutor will seek to call a rebuttal case and, if so, its possible duration are not yet known and can be estimated only at the end of the defence case. The accused is challenging a considerable number of the adjudicated facts admitted by the Trial Chamber prior to the commencement of the trial. The Office relied on these facts to reduce the volume of evidence it presented in the case and the status of these adjudicated facts following the conclusion of the defence case is a factor that will have an impact on the length of any rebuttal case.

16. On 11 December 2012, the Appeals Chamber issued a decision on Karadžić's appeal against the Trial Chamber's rule 98 bis decision upholding the hostage-taking count (count 11) of the indictment. The Appeals Chamber dismissed Karadžić's appeal and the hostage-taking count remains operative. The trial is proceeding pending a decision regarding the prosecution's appeal against the Trial Chamber's rule 98 bis decision to acquit Karadžić of genocide in municipalities throughout Bosnia and Herzegovina in 1992 (count 1 of the indictment).

17. The Office of the Prosecutor continues to have considerable disclosure obligations due to Karadžić's extensive rule 66 (B) requests, whereby he has requested disclosure covering a broad range of topics that he considers material to the preparation of his defence.

18. Staff attrition remains a serious problem in the *Karadžić* case. During the reporting period, two trial attorneys resigned and the team expects to lose more staff members in the coming period. The remaining team members have been required to absorb additional duties, with crucial support being provided by the Appeals Division to minimize the impact that the loss of key personnel is having on the conduct of the trial. Urgent staffing needs were also met by hiring new staff members on short-term contracts, but retention strategies remain an urgent need.

6. *Mladić*

19. The prosecution continues to present its case-in-chief in the *Mladić* trial. In the period from 16 October 2012 to 26 April 2013, the Office of the Prosecutor used 101 hours of the 200 hours allocated to it. In that same period, Mladić used approximately 202 hours for cross-examination and the Chamber used approximately 17.25 hours for questioning witnesses and procedural and administrative matters. The Office has called 86 witnesses viva voce or pursuant to rules 92 bis, ter and quater. At the beginning of the prosecution case, the Office intended to call 200 witnesses but, in the interests of expediency, has reduced that figure to 170. The precise number to be called depends upon several pending decisions by the Trial Chamber.

20. The *Mladić* defence requested an adjournment of hearings in the month of March 2013 to assist attorneys on its team to prepare submissions before the Appeals Chamber in another case. The Trial Chamber altered the sitting schedule to four days a week during the months of April and May. Taking into account these reduced sitting days, the prosecution projects that it will complete the presentation of its case before the end of 2013.

21. During the reporting period, two trial attorneys resigned and measures are currently being considered for their replacement.

7. *Hadžić*

22. The trial in this case has continued to proceed expeditiously. At the beginning of the case, the Trial Chamber granted the prosecution 175 hours in which to present 82 witnesses. To date, the prosecution has used approximately 85 hours to examine 38 of the 82 witnesses. In January and February 2013, the Trial Chamber ruled that four additional witnesses should be heard viva voce and that three others should testify for periods longer than projected by the prosecution. On 24 April 2013, the Trial Chamber granted the Office of the Prosecutor an additional 10 hours for its case-in-chief to accommodate these modifications. As at the end of April 2013, the Defence has used 72 hours for cross-examination and the Trial Chamber has used 14 hours for examination of witnesses.

23. In January 2013, the Trial Chamber announced a modified trial sitting schedule for the months of February, March and April 2013. Instead of sitting four days per week, the Trial Chamber was in session for one full week per month for each of these three months. On 1 May 2013, the trial resumed with its previous sitting schedule of four days per week. The Trial Chamber has scheduled a site visit to areas relevant to the indictment against Hadžić for 23 September 2013. The prosecution's case will likely close before the end of 2013. The trial team will continue to utilize all possible measures to ensure the efficient presentation of its case.

24. During the reporting period, one legal officer resigned and the recruitment process for a replacement is currently under way.

C. Update on the progress of appeals

25. During the reporting period, appeal judgements were issued in *Lukić and Lukić*, *Gotovina and Markač*, and *Perišić*. On 4 December 2012, the Appeals Chamber affirmed the convictions of Milan Lukić and Sredoje Lukić relating to crimes committed in Višegrad in 1992. On 16 November 2012, the Appeals Chamber reversed the convictions of Gotovina and Markač for crimes committed in the Krajina region of Croatia during Operation Storm between July and September 1995 and entered acquittals. On 28 February 2013, the Appeals Chamber reversed Perišić's convictions for aiding and abetting the crimes committed in Sarajevo and Srebrenica. It also reversed his conviction based on superior responsibility for the crimes committed in Zagreb. In addition, appeal hearings were held in *Šainović et al.* between 11 and 15 March 2013 and *Đorđević* on 13 May 2013 and the parties await the Appeals Chamber's judgements. A hearing on the Prosecution's rule 98 bis appeal concerning count 1 of the indictment (charging genocide committed in various municipalities of Bosnia and Herzegovina in 1992) was also held in the *Karadžić* case on 17 April 2013 and the parties await the Appeals Chamber's decision. The *Popović et al.* case is fully briefed and the hearing is expected to be scheduled in the next reporting period.

26. The appeal process also recently commenced in two cases. The *Tolimir* trial judgement was issued on 12 December 2012 and Tolimir's notice of appeal was filed on 11 February 2013. The prosecution did not appeal. The *Stanišić and Župljanin* trial judgement was issued on 27 March 2013. The parties filed their notices of appeal on 13 May 2013. Prior to the judgement, the Office of the Prosecutor filed a motion asking the Trial Chamber to make findings on alternate modes of liability and to reopen the case to admit the transcript of an interview of a witness called by the Trial Chamber. Both motions were denied.

27. By 13 May 2013, the Appeals Division carried an inventory of prosecution appeals affecting 12 accused persons, in addition to 13 appeals by convicted persons against their convictions and/or sentence. The Appeals Division (and/or its Residual Mechanism counterpart) will add to this caseload, should appeals be filed concerning the trial judgements in *Prlić*, *Stanišić and Simatović* and *Šešelj*, which are expected before the end of the year.

28. The Appeals Division continues to assist trial teams with briefing major legal issues, preparing pretrial briefs, final trial briefs, opening and closing submissions, pretrial motions, motion responses and other trial preparation matters including such time-sensitive issues as urgent motion responses and disclosure. The Appeals Division also continues to manage several essential trial-related functions, including digesting and communicating substantive and procedural decisions of interest to the trial teams, assisting with management of the internship programme of the Office of the Prosecutor and managing the periodic meetings of the legal advisers.

D. Contempt cases

1. *Rašić*

29. On 16 November 2012, the Appeals Chamber upheld Rašić's conviction for contempt. The Appeals Chamber also affirmed the Trial Chamber's sentence of 12 months' imprisonment and rejected the challenge by the Office of the Prosecutor to the Trial Chamber's decision to suspend eight months of the sentence.

2. *Šešelj*

30. The Appeals Chamber issued a judgement in the second contempt case against Šešelj on 28 November 2012. Šešelj was convicted of contempt by the Trial Chamber for failing to remove confidential information about Tribunal witnesses from the public domain. The Appeals Chamber affirmed Šešelj's sentence of 18 months' imprisonment. The Appeals Chamber also noted that the sentence had already been served, given that Šešelj has been detained longer than the total of the 15-month sentence imposed in the first contempt case against him and the 18-month sentence imposed upon the second contempt conviction.

31. The third contempt case against Šešelj for his continuing failure to remove confidential information about Tribunal witnesses from the public domain despite the judgements against him and consequent orders to do so is ongoing. Šešelj has appealed the Trial Chamber's third contempt conviction against him and the matter is before the Appeals Chamber.

32. On 10 January 2013, the President of the Tribunal denied Šešelj's motion for the disqualification of three appeal judges sitting on his third contempt case. These judges were also involved in rendering a decision that Šešelj had waived his right to appeal the judgement in the second contempt case against him.

E. Access orders

33. The Office of the Prosecutor continues to spend significant resources to ensure compliance with 42 trial and appeal decisions granting accused persons access to confidential material in related cases. Since the previous report, three new access

decisions have been issued and the Office has filed 59 notices of compliance in 34 ongoing and completed cases. The Office has also completed the review work required by 22 decisions in six cases. Ongoing work in eight cases is required pursuant to 17 decisions.

34. A large volume of review work has been and will continue to be required in relation to the *Karadžić* and *Mladić* trials. Ten accused have been granted ongoing access to confidential material in the *Karadžić* case. The parameters of access granted in each of these decisions differ, requiring separate and careful review of each confidential transcript, filing and decision. Similar work is required in the *Mladić* case, to which four accused have been granted ongoing access. These decisions will require ongoing review and the filing of periodic notices for the duration of the trials.

III. State cooperation with the Office of the Prosecutor

35. To successfully complete its mandate, the Office of the Prosecutor continues to rely on the full cooperation of States, as set out in article 29 of the statute of the Tribunal.

A. Cooperation between the States of the former Yugoslavia and the Office of the Prosecutor

36. During the reporting period, the Office of the Prosecutor sought cooperation from States of the former Yugoslavia, in particular Serbia, Croatia and Bosnia and Herzegovina. To promote and assess cooperation, the Office maintained a direct dialogue with Government and other authorities from each of these three countries, including officials in national prosecution offices. The Prosecutor met with officials in Belgrade from 7 to 9 May 2013 and in Sarajevo from 15 to 16 April 2013 to discuss cooperation and other issues. The Prosecutor will visit Croatia between 22 and 24 May for the annual conference of prosecutors from the former Yugoslavia held in Brijuni to discuss issues of mutual relevance.

1. Cooperation between Serbia and the Office of the Prosecutor

37. With the last three Tribunal trials in progress, Serbia continues to play an important role in ensuring the successful completion of the work of the Office of the Prosecutor. During meetings in Belgrade, representatives of the Government of Serbia reiterated their previous assurances that they will continue cooperating with the Office.

(a) Assistance with trials and appeals

38. The Office's access to documents and archives in Serbia remains important for ongoing trial and appeals proceedings. Overall, Serbia has shown continued diligence in processing the Office's requests for assistance. In the present reporting period, the Office sent 21 requests for assistance to Serbia and the Government of Serbia has responded adequately. The National Council for Cooperation, the central authority in charge of facilitating answers to requests from the Office for assistance, continues to play a valuable role in coordinating the work of the government bodies that handle the Office's requests for assistance.

39. Similarly, during the reporting period, the Serbian authorities continued to adequately facilitate the Office's access to witnesses, including their appearance before the Tribunal. Summonses were served on time, court orders were executed and witness interviews were arranged. The relevant legal and law enforcement bodies, including the Office of the War Crimes Prosecutor, provided valuable assistance to the Office of the Prosecutor.

40. The Office of the Prosecutor will continue to request Serbia's cooperation in support of its ongoing casework in the months to come. It asks the Serbian authorities to maintain their prompt and efficient approach to requests for assistance, given the rapid pace of the three remaining trials.

(b) Investigation into fugitive networks

41. Following the arrests of the last fugitives from the Tribunal, Mladić and Hadžić, Serbia undertook to provide the Office of the Prosecutor with comprehensive information explaining how a number of fugitives had evaded justice for so long prior to their capture. Serbia also undertook to investigate and prosecute individuals who assisted in harbouring fugitives while at large. The Office notes that Serbia's work on the fugitive networks is ongoing and encourages the Serbian authorities to ensure that this issue is finalized in a prompt and effective manner.

2. Cooperation between Croatia and the Office of the Prosecutor

42. The Office of the Prosecutor continues to rely on Croatia's cooperation to efficiently complete trials and appeals. In the present reporting period, the Office sent six requests for assistance to Croatia. Two requests are outstanding, although one has been partially responded to. Neither request is overdue. Croatia has also provided access to witnesses and evidence as required. The Office will continue to rely on Croatia's cooperation in upcoming trials and appeals.

3. Cooperation between Bosnia and Herzegovina and the Office of the Prosecutor

(a) Assistance with trials and appeals

43. During the reporting period, the Office of the Prosecutor sent 22 requests for assistance to Bosnia and Herzegovina relating to ongoing trials and appeals. No requests are outstanding. The authorities of Bosnia and Herzegovina, at both the State and entity levels, responded promptly and adequately to most of the Office's requests for documents and access to Government archives. The authorities also provided valuable assistance with witness protection matters and facilitated the appearance of witnesses before the Tribunal. As its casework progresses, the Office will continue to rely on similar assistance from Bosnia and Herzegovina in the future.

(b) Follow-up on investigative materials transferred by the Office of the Prosecutor to Bosnia and Herzegovina

44. The Prosecutor remains concerned about the slow pace of the investigation and prosecution of category II cases, which the Office of the Prosecutor transferred to the Bosnia and Herzegovina authorities between June 2005 and December 2009. Only 4 out of 13 cases have been completed. The Prosecutor noted in his previous report that some progress had been made, with indictments issued in three cases. However, since then, there have been no developments in any of the outstanding cases and the announced completion date of December 2013 will not be met.

45. The Prosecutor met with Bosnia and Herzegovina's new Chief Prosecutor in Sarajevo in April 2013 and the Chief Prosecutor has indicated that his Office will increase efforts to address the issue. To assist the Special Department for War Crimes in meeting its obligations in this regard, the Prosecutor has agreed with the Bosnia and Herzegovina Prosecutor's Office that he will return to the country in the coming weeks to discuss practical steps that can be taken with a view to completing the category II cases.

46. The Prosecutor hopes that the Bosnia and Herzegovina authorities can also finalize investigations arising from material transferred by the Office of the Prosecutor to Bosnia and Herzegovina concerning crimes documented in Office cases, but which did not form part of the Tribunal's indictments.

4. Cooperation between other States and organizations and the Office of the Prosecutor

47. Support from States outside the former Yugoslavia, as well as from international organizations, remains integral to the successful completion of cases before the Tribunal. Assistance is needed to access documents, information and witnesses, as well as in matters related to witness protection, including the relocation of witnesses.

48. The Office of the Prosecutor acknowledges the support it received during the reporting period from States Members of the United Nations and international organizations, including the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, OSCE, the Council of Europe and non-governmental organizations, including those active in the former Yugoslavia.

49. The international community also has an important role to play in providing incentives for States in the former Yugoslavia to cooperate with the Tribunal. The European Union's policy of conditionality, linking progress towards membership to full cooperation with the Tribunal, continues to be an effective tool for ensuring continued cooperation with the Tribunal and consolidating the rule of law in the former Yugoslavia.

IV. Transition from the International Tribunal for the Former Yugoslavia to national war crimes prosecutions

50. As the Tribunal moves further towards the completion of its mandate, the Office of the Prosecutor remains committed to promoting effective war crimes prosecutions in the former Yugoslavia. The Office is strengthening its role in building the capacity of its national counterparts to carry on the accountability process started by the Tribunal. The effective prosecution of war crimes committed during the conflicts in the former Yugoslavia is fundamental for the truth-seeking and reconciliation process. Accountability for these crimes depends as much on the success of national prosecutions as it does on the effective completion of the Tribunal's last cases.

51. While some progress has been made in war crimes prosecutions in countries of the former Yugoslavia, significant difficulties remain, particularly in Bosnia and Herzegovina.

A. Challenges in establishing accountability for war crimes in Bosnia and Herzegovina

52. Progress towards implementing the National War Crimes Strategy in Bosnia and Herzegovina remains limited. Although 24 cases against 42 individuals were initiated in 2012 and 16 cases were prosecuted, a large backlog remains. The Bosnia and Herzegovina authorities have little or no prospect of meeting the 2015 deadline imposed as part of the strategy.

53. According to the new Chief Prosecutor, around 318 cases have been transferred from the State to entity-level judicial organs. However, since the transfer of these cases, the Office of the Prosecutor has not received any requests for assistance from the entity-level authorities and there has been little progress in processing these cases at the entity level. Since limited progress has been made, a considerable backlog remains.

54. Comprehensive measures are required to make the National War Crimes Strategy effective at the entity level, including the appointment of additional entity prosecutors and other qualified personnel and the provision of adequate resources. Without the parallel provision of sufficient resources, the ongoing transfer of cases from the State level will be futile. In addition, continued efforts are needed to strengthen the capacity of entity-level courts to overcome problems with witness protection, which have posed a serious threat to the administration of justice, including in the context of sexual violence crimes. Political leaders on all sides must genuinely commit to radical improvements in implementing the National War Crimes Strategy. The Prosecutor strongly encourages the responsible authorities to make the necessary resources available.

B. Cooperation among States in the former Yugoslavia on war crimes investigations and prosecutions

55. The Office of the Prosecutor continues to promote improved regional cooperation in war crimes matters, which is essential for combating impunity in the former Yugoslavia. The Prosecutor is pleased to report that, on 31 January 2013, the Prosecutor's Offices of Bosnia and Herzegovina and Serbia signed a protocol on the exchange of evidence and information in war crimes cases. If properly implemented, the protocol could pave the way for the transfer of evidence between Bosnia and Herzegovina and Serbia and offer practical solutions to such problems as parallel investigations. It is also a potentially important step towards addressing the backlog of cases in Bosnia and Herzegovina. The Prosecutor's Offices in the respective States have agreed to hold monthly meetings to discuss the protocol and have informed the Office of the Prosecutor that they have already exchanged information on a number of cases. The Prosecutor encourages the respective authorities to continue to take the necessary steps to implement the protocol. It is promising that the Prosecutor's Offices of Bosnia and Herzegovina and Croatia are considering entering into a similar protocol.

56. Challenges will, however, remain at the judicial level unless reforms are made. Judicial institutions in the former Yugoslavia continue to face serious challenges in coordinating their activities, such as legal barriers to the extradition of suspects, which continue to obstruct effective investigations. Urgent action is needed by

political and legal authorities in the region to promote and strengthen regional cooperation in war crimes cases. Improved cooperation among all countries in the region in tackling organized crime provides an important precedent. For example, Croatia and Serbia have signed and implemented an agreement on extraditing their nationals regarding organized crime. Bosnia and Herzegovina and Serbia have exchanged the text of an agreement on this matter, which is expected to be finalized in the near future. Bosnia and Herzegovina is planning to sign agreements with Croatia, the former Yugoslav Republic of Macedonia and Montenegro in the coming months. A similar commitment to tackling war crimes prosecutions is urgently needed at the political and operational levels.

57. In his previous report, the Prosecutor expressed concern in relation to the adoption of a law by the former Government of Croatia that annuls all indictments issued by the Serbian authorities against citizens from Croatia. The law remains under review by the Croatian Constitutional Court. The Prosecutor reiterates his concern that, if upheld, this legislative initiative will undermine regional cooperation on war crimes matters.

58. Another important component of promoting accountability and reconciliation in the former Yugoslavia is effective action to resolve the issue of missing persons, including through continued exhumation of mass graves. Survivor communities from the conflict have repeatedly expressed significant frustration about the lack of progress in recovering bodies, which exacerbates their grief. Authorities in the region should refocus on investigating the location of missing persons, regardless of their ethnicity. Improving this situation should be a priority in the coming months.

C. Support by the Office of the Prosecutor for national war crimes prosecutions

59. The Office of the Prosecutor is intensifying its efforts to help countries in the former Yugoslavia to more successfully handle their many remaining war crimes cases. Under the Prosecutor's direction, the Office's transition team is leading the Office's work to facilitate domestic war crimes cases through information and expertise transfers.

1. Access to information in databases of the Office of the Prosecutor and in Tribunal case records

60. During the reporting period, the Office of the Prosecutor continued to provide information to assist national jurisdictions in prosecuting crimes arising from the conflict in the former Yugoslavia. The volume of requests received increased from the previous period. In the period from 1 November 2012 to 30 April 2013, the Office received 105 new incoming requests for assistance. Of the new requests, 91 were submitted by national judicial authorities in the former Yugoslavia. The majority (56) came from Bosnia and Herzegovina, with 25 from Croatia and 10 from Serbia. However, some of these requests were extensive and hundreds of pages of material were disclosed in response. Liaison prosecutors (see para. 64 below) from the region who are working with the Office played a key role in facilitating responses to these requests. There were also 14 requests from prosecutor's offices and law enforcement agencies in other States.

61. Also during the reporting period, the Office of the Prosecutor responded to a total of 82 requests for assistance. Seventy of these responses concerned requests from

the judicial authorities in the former Yugoslavia. The majority of responses were sent to Bosnia and Herzegovina (55), 11 were sent to Croatia and 4 were sent to Serbia. Twelve responses were sent to the judicial authorities and law enforcement agencies in other States.

62. Judicial authorities in the former Yugoslavia also continued to utilize processes established under the Tribunal's Rules of Procedure and Evidence to access confidential materials from Tribunal cases where appropriate. In that regard, the Office of the Prosecutor responded to three rule 75 (H) applications from judicial authorities in the region and filed three rule 75 (G) applications.

63. Although a substantial number of requests for assistance have been submitted by State-level authorities in Bosnia and Herzegovina, as noted above, no requests have come from entity-level authorities to date, notwithstanding their increasing responsibility for prosecuting war crimes cases. To promote more effective access to Tribunal materials, including the databases of the Office of the Prosecutor, by authorities at all levels in Bosnia and Herzegovina, arrangements are under way for an Office information seminar in Bosnia and Herzegovina in the coming months. The European Union has agreed to fund the seminar, which will focus on providing practical advice and guidance for authorities in Bosnia and Herzegovina.

2. Expertise transfers

64. The joint European Union/Tribunal "liaison prosecutors" project is in its fourth year of operation and continues to form a central component of the Office's strategy to strengthen the capacity of national criminal justice systems in the former Yugoslavia for war crimes cases. Three liaison prosecutors from the region (one from Bosnia and Herzegovina, one from Croatia and one from Serbia) working with the Office of the Prosecutor in The Hague have access to designated Office databases and are instructed in the search methodologies used by the Office. They can consult with in-house experts on relevant issues and serve as contact points for other regional prosecutors. The liaison prosecutors also continue to facilitate responses to requests for assistance to their respective countries generated by the Office's trial teams.

65. Under the project, young legal professionals from the former Yugoslavia with a commitment to working on war crimes cases also work as interns with the Office of the Prosecutor in The Hague. In February 2013, a new group of young legal professionals drawn from Bosnia and Herzegovina, Croatia and Serbia commenced their six-month placements. During their time in The Hague, they are also invited to attend lectures and presentations on topics relating to the work of the Office of the Prosecutor and the Tribunal more generally. By investing in the education and training of these young legal professionals, the Office hopes to transfer expertise that can build capacity in domestic institutions to progress their war crimes cases.

66. The quality of work, professionalism and dedication of legal professionals from the region working with staff members of the Office in The Hague remains high. The participants in the project display a capacity to learn rapidly and to make the most of the opportunities provided to them within the Office. The feedback given by all associated with the project confirms its value in building the future capacity of the countries in the former Yugoslavia to effectively deal with complex war crimes cases. Further reflecting the value of the project, the European Union confirmed in April 2013 that it has extended funding for the project until the end of

2014. The Office of the Prosecutor remains grateful to the European Union for its continued support.

67. Building on the success of existing programmes, the Office of the Prosecutor has identified other avenues for transferring its expertise to regional authorities. As mentioned in the Prosecutor's previous report, the Office has commenced work on a manual for prosecuting sexual violence crimes that will record the Office's best practices and lessons learned for the prosecution of sexual violence crimes. The manual will be a user-friendly and practitioner-oriented resource to assist with prosecuting sexual violence cases and will also be crafted with a capacity-building focus in mind. In the reporting period, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) extended funding for the first phase of the project to develop the manual. This first phase has involved in-depth consultations with current and former Tribunal staff members who have worked on sexual violence prosecutions, consultations with counterparts in the former Yugoslavia and the completion of a detailed outline of the proposed manual.

68. In another initiative, the Office of the Prosecutor, together with its counterparts at the Tribunal, the Special Court for Sierra Leone, the Special Tribunal for Lebanon and the Extraordinary Chambers in the Courts of Cambodia, have finalized a "Compendium of Lessons Learned and Suggested Practices". The Compendium has been published on the website of the International Association of Prosecutors. The aim of this initiative is to share the experience of the various prosecution offices when it comes to prosecuting mass atrocities and to make their insights available to other international prosecutors as well as national prosecutors who are actively participating in the International Association of Prosecutors.

3. Regional training needs assessment

69. The involvement of Office staff members in regional training initiatives is increasingly an important avenue for transferring the Office's expertise to prosecutors and others working on war crimes cases at the national level in the former Yugoslavia. With highly relevant experience and knowledge developed over the past two decades, the Office of the Prosecutor is uniquely placed to provide training to its regional counterparts. In the reporting period, the Office intensified its efforts to ensure the development of a coordinated and effective regional training programme that makes the best possible use of the Office's in-house expertise and lessons learned.

70. In particular, since the Prosecutor's previous report, with the assistance of a senior expert and in close coordination with international partners who share an interest in building the capacity of Bosnia and Herzegovina for war crimes prosecutions, the Office has finalized an assessment of the training needs of personnel in Bosnia and Herzegovina working on war crimes cases. The final report, containing a series of concrete recommendations, has been shared with the Office's primary partners, including OSCE, the European Union and UNDP, and the Office is preparing to disseminate the report to relevant authorities in Bosnia and Herzegovina. The report is already having a positive impact in the region. The report constitutes an additional step towards facilitating a focused discussion on regional training needs. It proposes a coordinated and effective strategy for improving national war crimes proceedings through the creation of a structured and comprehensive training programme with built-in follow-up mechanisms to ensure lasting impact.

71. The Office of the Prosecutor is continuing to engage in dialogue with its partners, in particular the European Union, to determine how the proposals in the report could best be implemented. Capacity-building through regional training programmes is a significant focus of attention for the European Union in the context of the European Union-Bosnia and Herzegovina Structured Dialogue on Justice, which is taking place within the framework of the Stabilization and Association Process. The Office has been participating in meetings convened as part of the Structured Dialogue and welcomes the opportunity to continue its work with the European Union on the regional training component of the Dialogue.

72. The Office hopes that, through the Structured Dialogue and other mechanisms aimed at building capacity, greater progress in implementing the Bosnia and Herzegovina National War Crimes Strategy will be observed in the coming months.

V. Downsizing and preparing for the International Residual Mechanism for Criminal Tribunals

A. Downsizing of posts in the Office of the Prosecutor and support to staff for career transition

73. The Office of the Prosecutor currently has a total of 175 staff members. Several posts will be downsized in the next reporting period. As the size of the staff body decreases, the Office is reorganizing its office space to facilitate the eventual consolidation of all Tribunal operations within one building.

74. The Office actively supports measures to assist staff in making the transition from their work at the Tribunal to the next step in their careers. Many Office staff members have become highly specialized in international criminal investigations and prosecutions but are faced with few opportunities to continue working in this field. The international community has an interest in ensuring that the expertise collected within the Office of the Prosecutor is not lost to future peace, justice and accountability endeavours upon closure of the Tribunal. In this reporting period, the Office facilitated training for its staff members to enable them to become registered members of the Justice Rapid Response roster of personnel available for deployment for investigation commissions. The Office also continues to support the Tribunal's ongoing initiatives to assist staff, such as career counselling, the work of the newly established Career Transition Office and training opportunities, and welcomes efforts to expand the array of support available to staff members.

75. The Office is also taking steps to ensure that appropriate support is made available for its staff members to deal with secondary trauma arising from their work at the Tribunal. Many Office staff members have been exposed to the exceptionally high levels of trauma suffered by victims of the conflict in the former Yugoslavia over prolonged periods of time. The Office recognizes that support mechanisms for its staff members are particularly important in this final phase when staff members are under intense pressure to carry heavier workloads than ever in order to complete the Tribunal's mandate and, at the same time, must prepare to transition to their uncertain working lives beyond the Tribunal.

B. Preparations for the International Residual Mechanism for Criminal Tribunals, The Hague Branch

76. As the commencement of the International Residual Mechanism for Criminal Tribunals, The Hague Branch approaches on 1 July 2013, preparations for the set-up of the Office of the Prosecutor of the Residual Mechanism, The Hague Branch are intensifying. In this reporting period, the Office of the Prosecutor has been involved in extensive recruitment processes to ensure that the core staff for the Office of the Prosecutor, The Hague Branch will be in place in good time for the start of its operations. At the same time, the Office has continued to assist the Residual Mechanism Prosecutor with recruitment processes for the Office of the Prosecutor of the Residual Mechanism, The Arusha Branch. The Office has also had significant involvement in drafting the 2014/2015 budget submission of the Residual Mechanism. More generally, the Office has maintained its consistent dialogue with colleagues in the Office of the Prosecutor of the International Criminal Tribunal for Rwanda and the Office of the Prosecutor of the Residual Mechanism, The Arusha Branch to ensure the coordinated and efficient transitions of functions to the Office of the Prosecutor of the Residual Mechanism in accordance with the transitional arrangements prescribed by the Security Council. Most recently, the Prosecutor and members of his senior management team met with the Prosecutor of the Residual Mechanism and his delegation for extensive discussions on Residual Mechanism matters in April 2013.

77. With a continuously evolving trial and appeal schedule and the prospect that cases formerly slated for conclusion before the Appeals Chamber may be transferred instead to the Appeals Chamber of the Residual Mechanism, planning for the Residual Mechanism will continue to be a complex and challenging exercise.

VI. Conclusion

78. This reporting period marks the twentieth anniversary of the creation of the International Tribunal for the Former Yugoslavia. While it is a time for reflection on past achievements and lessons learned, at the same time, the Office of the Prosecutor is busier than ever with some of the most important cases to come before the Tribunal. The Office remains firmly focused on its present challenges, to ensure that the Tribunal will continue to set the highest standards of international justice until its last case is complete.

79. A critical component of the Tribunal's legacy will be the success of the transition to national prosecutions. In order to ensure that the Tribunal's contribution to peace, justice and reconciliation in the region is successful, more must be done to promote the effective national prosecution of war crimes cases and to increase regional cooperation. In the light of ongoing concerns regarding the investigation and prosecution of national war crimes cases, the Office of the Prosecutor is contributing, to the maximum extent possible, to measures to strengthen local capacities. The Office hopes to see the commitment of resources required for the effective implementation of national war crimes strategies, particularly in Bosnia and Herzegovina, and greater political will to improve regional cooperation on war crimes matters.

80. The next reporting period will see significant further progress towards the completion of the Tribunal's three remaining trials and a significant increase in appellate casework. To ensure the successful completion of its mandate, the Office of the Prosecutor will continue to implement measures to facilitate the efficient progress of the remaining trials and devote resources to manage the effective progress of appeals. The Office will also continue to manage the successful transition of functions to the Office of the Prosecutor of the Residual Mechanism, The Hague Branch.

Enclosures

[Original: English and French]

Enclosure I

A. Trial judgements, 17 November 2012 to 15 May 2013 (by individual)

Name	*Former title*	*Initial appearance*	*Trial judgement*
Ramush Haradinaj	Commander of the Kosovo Liberation Army in the Dukagjin area	14 March 2005	29 November 2012 Acquitted after a partial retrial
Idriz Balaj	Commander of the Kosovo Liberation Army Black Eagles Special Unit	14 March 2005	29 November 2012 Acquitted after a partial retrial
Lahi Brahimaj	Deputy Commander of the Kosovo Liberation Army Dukagjin Operative Staff	14 March 2005	29 November 2012 Acquitted after a partial retrial
Zdravko Tolimir	Assistant Commander for Intelligence and Security, Main Staff, Bosnian Serb Army	4 June 2007	12 December 2012 Sentenced to life imprisonment
Mićo Stanišić	Minister, Internal Affairs, Republika Srpska	17 March 2005	27 March 2013 Sentenced to 22 years of imprisonment
Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre, Banja Luka	23 June 2008	27 March 2013 Sentenced to 22 years of imprisonment

B. Appeal judgements, 17 November 2012 to 15 May 2013 (by individual)

Name	*Former title*	*initial appearance*	*Appeal judgement*
Milan Lukić	Leader of the "White Eagles"	24 February 2006	4 December 2012 Sentence of life imprisonment confirmed
Sredoje Lukić	Member of a group of local Bosnian Serb paramilitaries in Višegrad	20 September 2005	4 December 2012 Sentence reduced from 30 years to 27 years of imprisonment
Momčilo Perišić	Chief of the General Staff of the Yugoslav Army	9 March 2005	28 February 2013 Acquitted on appeal

Enclosure II

A. Persons on trial as at 15 May 2013

Name	*Former title*	*Initial appearance*	*Start of trial*
Jadranko Prlić	President, Croatian Republic of Herceg-Bosna	6 April 2004	Trial commenced on 26 April 2006
Bruno Stojić	Head of Department of Defence, Croatian Republic of Herceg-Bosna	6 April 2004	Trial commenced on 26 April 2006
Slobodan Praljak	Assistant Minister of Defence, Croatian Republic of Herceg-Bosna	6 April 2004	Trial commenced on 26 April 2006
Milivoj Petković	Deputy Overall Commander, Croatian Defence Council	6 April 2004	Trial commenced on 26 April 2006
Valentin Ćorić	Chief of Military Police Administration, Croatian Defence Council	6 April 2004	Trial commenced on 26 April 2006
Berislav Pušić	Military Police Commanding Officer, Croatian Defence Council	6 April 2004	Trial commenced on 26 April 2006
Vojislav Šešelj	President, Serbian Radical Party	26 February 2003	Trial commenced on 7 November 2007
Jovica Stanišić	Head, State Security Services, Republic of Serbia	12 June 2003	Trial commenced on 9 June 2009
Franko Simatović	Commander, Special Operations Unit, State Security Services, Republic of Serbia	2 June 2003	Trial commenced on 9 June 2009
Radovan Karadžić	President, Republika Srpska	31 July 2008	Trial commenced on 26 October 2009
Ratko Mladić	Commander of the Main Staff of the Bosnian Serb Army	3 June 2011	Trial commenced on 16 May 2012
Goran Hadžić	President, Serbian Autonomous District Slavonia, Baranja and Western Srem	25 July 2011	Trial commenced on 16 October 2012

B. Persons on appeal as at 15 May 2013

Name	*Former title*	*Date of trial judgement*
Vlastimir Đorđević	Assistant Minister of the Serbian Ministry of Internal Affairs and Chief of the Public Security Department of the Ministry of Internal Affairs	23 February 2011
Vujadin Popović	Lieutenant Colonel and Chief of Security of the Drina Corps of the Bosnian Serb Army	10 June 2010
Ljubiša Beara	Colonel and Chief of Security of the Bosnian Serb Army Main Staff	10 June 2010
Drago Nikolić	Second Lieutenant who served as Chief of Security for the Zvornik Brigade of Bosnian Serb Army	10 June 2010
Radivoje Miletić	Chief of Operations and Training Administration of the Bosnian Serb Army Main Staff	10 June 2010
Vinko Pandurević	Lieutenant Colonel and Commander of the Zvornik Brigade of the Drina Corps of the Bosnian Serb Army	10 June 2010
Nikola Šainović	Deputy Prime Minister of the Federal Republic of Yugoslavia	26 February 2009
Nebojša Pavković	Commander of the Third Army of the Yugoslav Army and Chief of the General Staff of the Yugoslav Army	26 February 2009
Vladimir Lazarević	Chief of Staff/Commander of the Priština Corps of the Yugoslav Army; Chief of Staff/Commander of the Third Army of the Yugoslav Army	26 February 2009
Sreten Lukić	Head of the Serbian Ministry of Internal Affairs Staff for Kosovo and Metohij	26 February 2009
Mićo Stanišić	Minister, Internal Affairs, Republika Srpska	27 March 2013
Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre, Banja Luka	27 March 2013
Zdravko Tolimir	Assistant Commander for Intelligence and Security, Main Staff, Bosnian Serb Army	12 December 2012

C. Persons on trial for contempt as at 15 May 2013

Name	*Former title*	*Date of order (in lieu of indictment)*
Radislav Krstić	Commander of the Drina Corps of the Bosnian Serb Army	27 March 2013

D. Persons on appeal for contempt as at 15 May 2013

Name	*Former title*	*Date of trial contempt judgement*
Vojislav Šešelj	President, Serbian Radical Party	28 June 2012

Enclosure III[a]

Proceedings completed, 17 November 2012 to 15 May 2013

A. Trial judgements rendered, 17 November 2012 to 15 May 2013

1. Haradinaj et al. IT-04-84bis-T (29 November 2012)
2. Zdravko Tolimir IT-05-88/2-T (12 December 2012)
3. Stanišić and Župljanin IT-08-91-T (27 March 2013)

B. Contempt judgements rendered, 17 November 2012 to 15 May 2013

None

C. Appeals from judgements rendered, 17 November 2012 to 15 May 2013

1. Lukić and Lukić IT-98-32/1-A (4 December 2012)
2. Momčilo Perišić IT-04-81-A (28 February 2013)

D. Appeals from contempt judgements rendered, 17 November 2012 to 15 May 2013

1. Šešelj IT-03-67-R77.3-A (28 November 2012)

E. Final interlocutory decisions rendered, 17 November 2012 to 15 May 2013

1. Karadžić IT-95-5/18-AR73.9 (11 December 2012)
2. Karadžić IT-95-5/18-AR73.10 (29 January 2013)

F. Review, referral and other appeal decisions rendered, 17 November 2012 to 15 May 2013

None

[a] Only public decisions are listed in enclosures III and IV.

Enclosure IV

Proceedings ongoing as at 15 May 2013

A. Trial judgements pending as at 15 May 2013

1. Prlić et al. IT-04-74-T
2. Šešelj IT-03-67-T
3. Stanišić and Simatović IT-03-69-T
4. Karadžić IT-95-5/18-T
5. Mladić IT-09-92-T
6. Hadzić IT-04-75-T

B. Contempt judgements pending as at 15 May 2013

1. Krstić IT-95-5/18-R77.3

C. Appeals from judgements pending as at 15 May 2013

1. Šainović et al. IT-05-87-A
2. Popović et al. IT-05-88-A
3. Đorđević IT-05-87/1-A
4. Tolimir IT-05-88/2-A
5. Karadžić IT-95-5/18-AR98bis.1
6. Stanišić and Župljanin IT-08-91-A

D. Appeals from contempt judgements pending as at 15 May 2013

1. Šešelj IT-03-67-R77.4-A

E. Interlocutory decisions pending as at 15 May 2013

1. Mladić IT-09-92-AR73.1
2. Mladić IT-09-92-AR73.2

F. Review, referral and other appeal decisions pending as at 15 May 2013

None

Enclosure V

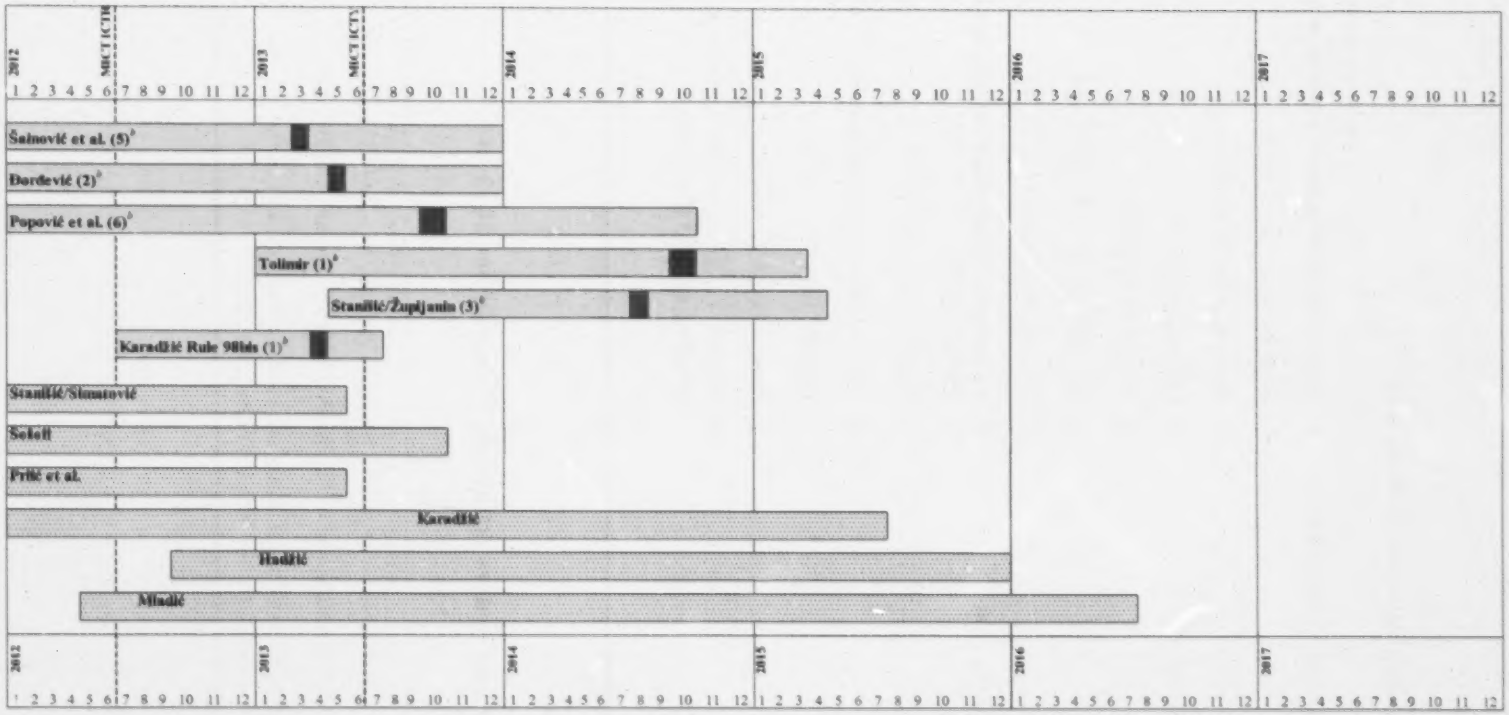
All decisions and orders rendered, 17 November 2013 to 15 May 2013

1. Total number of decisions and orders rendered by the Trial Chambers: 226
2. Total number of decisions and orders rendered by the Appeals Chamber: 38
3. Total number of decisions and orders rendered by the President of the International Tribunal for the Former Yugoslavia: 11

Enclosure VI

Trial and appeal schedule of the Tribunal

Trial and appeal schedule of the International Tribunal for the Former Yugoslavia[a]



Abbreviations: MICT, International Residual Mechanism for Criminal Tribunals; ICTR, International Criminal Tribunal for Rwanda; ICTY, International Tribunal for the Former Yugoslavia.

[a] Contempt matters are not included.

[b] Number of accused/appellants, including the prosecution.

United Nations S/2013/309

Security Council

Distr.: General
23 May 2013

Original: English

Letter dated 23 May 2013 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Residual Mechanism for Criminal Tribunals, pursuant to paragraph 16 of Security Council resolution 1966 (2010).

I would be grateful if you could transmit these assessments to the members of the Security Council.

(*Signed*) Theodor **Meron**
President

13-34560 (E) 050613

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Annex I

[Original: English and French]

Progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, for the period from 15 November 2012 to 23 May 2013

Preface

1. The present report is the second to be submitted by the President of the International Residual Mechanism for Criminal Tribunals pursuant to Security Council resolution 1966 (2010), by which the Council established the Mechanism and in which the President and the Prosecutor of the Mechanism were requested to submit six-monthly reports to the Security Council on the progress of its work.

I. Introduction

2. On 22 December 2010, the Security Council adopted resolution 1966 (2010), by which it established the International Residual Mechanism for Criminal Tribunals to carry out a number of essential functions of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda after the closure of the Tribunals, including the trial of fugitives who are among the most senior leaders suspected of being most responsible for crimes. The Council emphasized that the Mechanism should be a small, temporary and efficient structure. In accordance with its statute (Security Council resolution 1966 (2010), annex 1), the Mechanism has a single set of principals — a President, a Prosecutor and a Registrar — who have responsibility over two branches, one located in Arusha, United Republic of Tanzania, and the other in The Hague. The Council determined that the Mechanism should operate for an initial period of four years and continue to operate for subsequent periods of two years following reviews of its progress, unless the Security Council decided otherwise.

3. As mandated, the Mechanism commenced operations at its Arusha branch on 1 July 2012. This branch covers functions inherited from the International Criminal Tribunal for Rwanda. The Hague branch will assume functions derived from the International Tribunal for the Former Yugoslavia on 1 July 2013. Preparations for the opening of The Hague branch are well under way.

4. The Arusha branch of the Mechanism is fully functional. It has issued orders and decisions in areas under its competence. It has been actively providing support and protection for witnesses who have testified in completed cases before the International Criminal Tribunal for Rwanda. The Arusha branch is also engaged in monitoring the cases referred by the Tribunal to national jurisdictions and has assumed responsibility over issues related to the enforcement of sentences handed down by it. The branch has sought, and will continue to seek, the cooperation of States on a variety of matters, including the critically important issue of the arrest and surrender of the remaining fugitives indicted by the Tribunal. In addition, it is

providing assistance to States in their domestic investigations and prosecutions of individuals charged in relation to the genocide in Rwanda. The Mechanism will in the near future assume responsibility over corresponding matters of the International Tribunal for the Former Yugoslavia.

II. Establishment of the Mechanism

5. With the commencement of operations at the Arusha branch on 1 July 2012 and the imminent opening of The Hague branch, the Mechanism will soon be fully operational. The timely establishment of the Mechanism is the result of close collaboration among the officials of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism. Throughout this process, the Mechanism has striven to maintain and build upon the achievements of the two Tribunals, while staying focused on its mandate and committed to remaining a small and efficient organization.

A. Organization and principals of the Mechanism

6. Article 4 of the statute of the Mechanism provides that the Mechanism shall consist of three organs: (a) the Chambers, comprising a Trial Chamber for each branch of the Mechanism and an Appeals Chamber common to both branches of the Mechanism; (b) the Prosecutor, common to both branches of the Mechanism; (c) the Registry, common to both branches of the Mechanism, which provides administrative services for the Mechanism, including the Chambers and the Prosecutor. Each organ is headed by a full-time or permanent principal, common to both branches.

7. The first President of the Mechanism is Judge Theodor Meron. President Meron was selected from a roster of 25 independent judges who were elected by the General Assembly on 20 December 2011 for a term of four years. The President serves as the head of the Mechanism and is responsible for, among other things, presiding over plenary meetings, coordinating the work of the Chambers, and supervising the activities of the Registry. President Meron is the Mechanism's only full-time Judge. Pursuant to article 8 of the statute of the Mechanism, the judges will travel to Arusha or to The Hague only as necessary at the request of the President. Insofar as possible, and as decided by the President, the judges will carry out their functions remotely. The judges are not remunerated for being on the roster but receive compensation for the days on which they are called to exercise their functions.

8. The Prosecutor of the Mechanism is Hassan Bubacar Jallow. Prosecutor Jallow was appointed in 2012 for a four-year term. Pursuant to article 14 of the statute of the Mechanism, the Prosecutor is responsible for the investigation and prosecution of persons covered by article 1 of the statute, essentially, those persons indicted by the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and individuals who have knowingly and wilfully interfered in the administration of justice or given false testimony before the Mechanism or the Tribunals.

9. The Mechanism's Registrar is John Hocking. Pursuant to article 15 of the statute, the Registrar is responsible for the administration and servicing of the branches of the Mechanism. Mr. Hocking was appointed in 2012 for a four-year term.

10. In an arrangement that promotes efficiency and coordination, and consistent with article 7 of the transitional arrangements approved by the Security Council in annex 2 to its resolution 1966 (2010), President Meron, Prosecutor Jallow and Registrar Hocking are all currently serving in two capacities. President Meron is also President of the International Tribunal for the Former Yugoslavia, Prosecutor Jallow is the serving Prosecutor of the International Criminal Tribunal for Rwanda, and Registrar Hocking is the Registrar of the International Tribunal for the Former Yugoslavia. Having each principal carry out the two sets of duties is cost-effective, since each receives only the one salary.

B. Branch locations and host country agreements

11. Pursuant to Security Council resolution 1966 (2010) and article 3 of its statute, the Mechanism has two branches, one located in Arusha, United Republic of Tanzania, and one in The Hague. The Office of Legal Affairs, assisted by the Mechanism and the Tribunals, is negotiating host country agreements with the Governments of the United Republic of Tanzania and the Netherlands. Until such agreements are concluded, the host country agreements for the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia apply provisionally to the Mechanism.

C. Commencement of the Arusha branch

12. The Arusha branch of the Mechanism has been fully operational since 1 July 2012, when it assumed certain residual functions from the International Criminal Tribunal for Rwanda. Pursuant to the statute of and the transitional arrangements for the Mechanism, those residual functions include: authority to try fugitives wanted for trial by the International Criminal Tribunal for Rwanda; authority to hear appeals against judgements or sentences handed down by the Tribunal where the notice of appeal is filed after 1 July 2012; authority to conduct reviews of judgements handed down by the Tribunal or to try post-commencement contempt cases; responsibility for the protection of victims and witnesses in completed trials of the Tribunal; supervision of the enforcement of Tribunal sentences; decisions on pardoning or commutation of sentences; and responding to requests for assistance from national jurisdictions related to the investigation or prosecution of those alleged to be responsible for serious violations of international humanitarian law in Rwanda. In addition, the Mechanism assumed responsibility for the management of the archives of both Tribunals; the latter will retain responsibility for the preparation of their records for transfer to the Mechanism.

13. The Arusha branch of the Mechanism is currently co-located with the International Criminal Tribunal for Rwanda but is actively engaged in planning for its new permanent premises.

14. On 16 January 2013, the Secretary-General submitted his second report on the construction of the new premises (A/67/696). By resolution 67/244 B, the General

Assembly approved the construction of the facility as designed and authorized the level of funding requested by the Mechanism. The Assembly also welcomed the progress made and the use of local knowledge in the design stage, and commended the Secretary-General for the savings achieved thus far. Throughout the project, the Mechanism has worked closely with and benefited greatly from the technical advice provided by the Office of Central Support Services at United Nations Headquarters.

15. The Mechanism is grateful for the cooperation offered by the Government of the United Republic of Tanzania, which has been excellent to date. The Government has offered to provide land and facilities, such as electricity, water and a drainage system, at no cost to the Organization.

D. Commencement of The Hague branch

16. Planning and preparations for the establishment of The Hague branch are on track and, like its predecessor in Arusha, The Hague branch will be fully functional from its first day of operation on 1 July 2013. Many of the core documents, policies and procedures that will govern the work of the branch are those adopted as part of the establishment of the Arusha branch. These include the Rules of Procedure and Evidence, numerous practice directions and several policies (see sect. F below).

17. For certain ongoing work, such as enforcement of sentences, protection of witnesses and provision of assistance to national jurisdictions, The Hague branch will initially rely on the support of staff of the International Tribunal for the Former Yugoslavia, working in two capacities, to ensure a smooth transition of functions from the Tribunal to the Mechanism.

18. The Hague branch will be co-located with the International Tribunal for the Former Yugoslavia for the period during which they will overlap. Plans for its eventual location are still under consideration.

E. Administration and facilities

19. For the 2012-2013 biennium, administrative services — such as human resources, finance, budget, procurement, logistics, security, and information and communications technology services — are provided to the Mechanism by the two Tribunals, under the coordination of the Registry of the Mechanism.

20. In 2012, in preparation for the decrease in the capacity of the Tribunals to support the Mechanism due to the imperatives of their progressive downsizing, the two Tribunals and the Mechanism reached a consensus on the basic requirements of a small, self-standing administration for the Mechanism, which will be divided between and service both branches. The Mechanism has developed a road map and a list of actions to be taken for the gradual implementation of this administrative component.

F. Legal and regulatory framework

21. The Mechanism has established a basic structure to govern its activities, mindful of the need to develop rules, procedures and policies that harmonize and

build upon best practices of both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. Since the developments described in the first progress report (S/2012/849), the Mechanism has continued its work in this area.

22. On 14 December 2012, the Registrar, following consultation with the President, issued the Practice Direction on filings made before the Mechanism for International Criminal Tribunals (MICT/7).[1] On 4 March 2013, the Registrar adopted a remuneration policy for persons representing indigent accused in appeals proceedings before the Mechanism. Further legal aid policies are under preparation.

23. On 23 April 2013, the President, following consultation with the Prosecutor and the Registrar pursuant to Rule 23 of the Mechanism's Rules of Procedure and Evidence, issued two practice directions on the conduct of proceedings, concerning: (a) the procedure for the variation of protective measures for access to confidential material of the two Tribunals and the Mechanism (MICT/8);[2] and (b) the formal requirements for requests for review of administrative decisions (MICT/9).[3] Additional practice directions are planned.

G. Recruitment of staff

24. The prompt, fair and transparent recruitment of a small staff for the Mechanism continues to be an administrative priority. Under the coordination of the Registrar, recruitment has been conducted by a panel composed of officials from the two Tribunals and members of central review bodies, taking into account appropriate geographical and gender balanced representation. Both Tribunals have shared the human resources burden in this exercise.

25. Of the 60 positions available from 1 July 2012 across both branches of the Mechanism, 86 per cent have either been filled or are now under recruitment. Staff who have been recruited or laterally transferred to the Mechanism include nationals of the following States: Albania, Australia, Belgium, Burundi, Cameroon, Canada, China, Colombia, Democratic Republic of the Congo, France, India, Italy, Kenya, Mali, Nepal, Netherlands, New Zealand, Rwanda, Senegal, Serbia, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Uganda, United Republic of Tanzania, United Kingdom of Great Britain and Northern Ireland, United States of America and Zimbabwe. Approximately 85 per cent of the staff have been recruited from the Tribunals. The Mechanism has reached the gender parity goals set by the Secretary-General with a 50 per cent gender rate in the Professional category, which exceeds the current 41 per cent average across the United Nations as a whole. The Mechanism has also appointed a gender and sexual harassment focal point.

26. In relation to its ad hoc judicial activity, the Mechanism has also undertaken a number of recruitments, including staff for the International Criminal Tribunal for Rwanda appeal from judgement currently before it.

[1] Available at www.unmict.org/files/documents/practice_directions/pd_mict7_en.pdf.
[2] Available at www.unmict.org/files/documents/practice_directions/pd_mict8_en.pdf.
[3] Available at www.unmict.org/files/documents/practice_directions/pd_mict9_en.pdf.

III. Judicial activities

27. On 2 July 2012, the President of the Mechanism assigned Judge Vagn Joensen (Denmark) as duty judge at its Arusha branch. This maximized efficiency, since Judge Joensen, who is President of the International Criminal Tribunal for Rwanda, is resident in Arusha and does not require remuneration for the duties performed for the Mechanism. In his role as duty judge, Judge Joensen has dealt or is dealing with numerous motions, including requests for variation of protective measures for witnesses in relation to the use of materials of the Tribunal in other proceedings, consideration of allegations of contempt arising out of a case of the Tribunal, and a number of confidential motions.

28. On 4 December 2012, the Appeals Chamber of the Mechanism delivered a decision in the case of *François Karera* v. *The Prosecutor*, denying a request by François Karera for the appointment of counsel to assist in preparing a request for review. In ruling on Mr. Karera's request, the Appeals Chamber observed that, like the corresponding documents of the Tribunals, the Mechanism's statute, its Rules of Procedure and Evidence and the Directive on the assignment of defence counsel do not provide for assignment of counsel at the preliminary stage of a request for review. The Appeals Chamber also noted that Mr. Karera's submissions largely repeated previous submissions that had been dismissed by the Appeals Chamber of the International Criminal Tribunal for Rwanda and concluded that his request was without merit.

29. On 11 December, the President issued the first decision in the Mechanism, on an application for early release which had been brought by Paul Bisengimana. In reaching his decision, the President explained that he was required by the Mechanism's Rules to consider the treatment of similarly-situated prisoners as a factor in deciding an application for early release and concluded that early release applicants would be considered similarly situated to all prisoners whose sentences would be supervised by the Mechanism, irrespective of whether they were convicted or sentenced by the Tribunals or the Mechanism itself. The President held that all convicts whose sentences were supervised by the Mechanism should be considered eligible for early release upon the completion of two thirds of their sentence, irrespective of the Tribunal that had convicted them. The President noted that this practice originated from the International Tribunal for the Former Yugoslavia and diverged from the practice of the International Criminal Tribunal for Rwanda, where a three quarters benchmark had been used, but concluded that fundamental fairness and justice were best served if the practice of the International Tribunal for the Former Yugoslavia applied uniformly to the entire prisoner population to be ultimately supervised by the Mechanism. After considering the factors identified in Rule 151 of the Rules of Procedure and Evidence, as well as the particular circumstances of the case, the President granted Mr. Bisengimana's application for early release.

30. On 12 December, the President granted the application of Omar Serushago for early release. The President also has pending before him a number of confidential filings related to the enforcement of sentences.

31. On 21 February 2013, the trial judgement in the Tribunal case of *The Prosecutor* v. *Augustin Ngirabatware* was issued in writing. On the same date, the same Trial Chamber of the Tribunal issued a decision on allegations of contempt, in

which, inter alia, it issued an order in lieu of indictment, charging Deogratias Sebureze and Maximilien Turinabo with contempt of the Tribunal, directed the Registry of the Tribunal to refer the matter to the Mechanism to conduct and complete the proceedings, and directed the Registry to inform the Mechanism that an amicus curiae should be appointed to prosecute Messrs. Sebureze and Turinabo. Both the trial judgement of the International Criminal Tribunal for Rwanda and the Tribunal's decision on allegations of contempt have led to litigation before the Mechanism.

32. Following the filing of a motion by Augustin Ngirabatware seeking a stay of deadline to file his notice of appeal and an order to the Registry, the President assigned a bench of the Appeals Chamber of the Mechanism to hear Mr. Ngirabatware's appeal from judgement. On 28 February, the President assigned himself as Pre-Appeal Judge in the case and, in that capacity, ruled on Mr. Ngirabatware's motion on 14 March. Pursuant to that decision, Mr. Ngirabatware filed his notice of appeal on 9 April. Briefing is ongoing.

33. On 19 March 2013, the President of the Mechanism issued his first decision on a request for review of an administrative decision by the Registrar of the Mechanism. The request for review was filed by Counsel for Mr. Ngirabatware and challenged a decision by the Registry of the Mechanism to provisionally suspend Mr. Sebureze's assignment as a member of Mr. Ngirabatware's defence team for his appeal following the decision of the International Criminal Tribunal for Rwanda on allegations of contempt. Noting the normative continuity between the Mechanism and its predecessor Tribunals and in the interests of ensuring consistency with the relevant practice and jurisprudence of the two Tribunals, the President concluded that he would decide the request for review on the basis of the relevant standards applied by the Tribunals to the review of administrative decisions taken by the Registrar. Applying these standards, the President granted the request for review, quashed the decision of the Registry and remanded the matter to the Registrar for further action, as appropriate.

34. On 27 February 2013, Messrs. Sebureze and Turinabo filed motions in the Mechanism challenging the legal force and effect of the Tribunal's decision on allegations of contempt. On 4 March, the President assigned the decision on allegations of contempt, the related order in lieu of indictment and the two pending motions to Judge Joensen as Single Judge. On 20 March, Judge Joensen determined, inter alia, that the Mechanism had the exclusive power to decide whether or not to indict in contempt cases before the International Criminal Tribunal for Rwanda where the indictment had not been confirmed before 1 July 2012, and that the Tribunal's decision on allegations of contempt had no legal effect before the Mechanism.

35. On 11 March, Messrs. Sebureze and Turinabo filed appeals from the Tribunal's decision on allegations of contempt before the Appeals Chamber of the Mechanism. The President assigned a bench of the Appeals Chamber to the appeals on 19 March; the appeals are currently pending, together with a related motion filed by the Prosecutor of the International Criminal Tribunal for Rwanda.

36. On 27 March, the Prosecutor of the International Criminal Tribunal for Rwanda filed an interlocutory appeal from the 20 March decision of the Single Judge and, on 8 April, the President assigned the appeal to a three-judge panel of the Appeals Chamber, in accordance with article 12 of the statute of the Mechanism. On

2 May, the Appeals Chamber found that the interlocutory appeal was premature and dismissed the appeal, together with a related motion.

IV. Victims and witnesses

37. Pursuant to article 20 of the statute of the Mechanism and article 5 of the transitional arrangements, the Mechanism on 1 July 2012 became responsible for witness support and protection functions in relation to the thousands of protected witnesses who have testified in completed cases tried by the International Criminal Tribunal for Rwanda. It will assume a similar role on 1 July 2013 in relation to witnesses for completed cases tried by the International Tribunal for the Former Yugoslavia.

38. The Witness Support and Protection Office has been fully operational since the establishment of the Arusha branch of the Mechanism. This has ensured a smooth transition in the provision of protection and support services to witnesses.

39. The Mechanism continues to manage and ensure the safe keeping of confidential witness information and to provide security for witnesses by undertaking threat assessments and coordinating responses to security requirements, consistent with judicial protection orders and in close collaboration with domestic authorities. The Mechanism also continues to provide ongoing support services to witnesses, including medical and psychosocial services to those residing in Rwanda, particularly for psychotrauma and HIV/AIDS patients, many of whom contracted the virus as a result of the genocide.

V. Fugitives and trial readiness

40. On 1 July 2012, in accordance with Security Council resolution 1966 (2010) and the statute of the Mechanism, the responsibility for tracking the remaining fugitives was transferred to the Mechanism. In that resolution, the Council urged all States, especially States in which fugitives were suspected to be at large, to further intensify cooperation with and render all necessary assistance to the Mechanism in order to achieve the arrest and surrender of all remaining fugitives as soon as possible.

41. The arrest and prosecution of the fugitives remains a top priority for the Mechanism. The President and Prosecutor, with the support of the Registrar, have agreed to work closely on the associated political issues.

42. To date, nine of the accused indicted by the International Criminal Tribunal for Rwanda for their participation in the 1994 Rwandan genocide remain at large. Currently, the Mechanism retains jurisdiction over three of those indictees, namely, Augustin Bizimana, Félicien Kabuga and Protais Mpiranya; the cases of the other six fugitives, namely, Fulgence Kayishema, Charles Sikubwabo, Ladislas Ntaganzwa, Aloys Ndimbati, Charles Ryandikayo and Phénéas Munyarugarama, have been referred to Rwanda.

43. In April 2013, at the request of the Prosecutor, the Mechanism duty judge vacated the warrants issued by the Tribunal for the arrest of Messrs. Bizimana, Kabuga and Mpiranya, replacing them with public warrants for their arrest and

transfer to the Arusha branch of the Mechanism. These warrants and orders are addressed to all Member States. Under article 28 of the statute of the Mechanism, Member States are obliged to comply with such requests without undue delay.

44. Consistent with its commitment to efficiency, the Mechanism is working to ensure that it is prepared to commence a trial when a fugitive is apprehended. Consequently, the Registrar is ensuring the necessary facilities and services will be in place and continues to prepare a roster of qualified potential staff, pursuant to article 15, paragraph 4, of the statute. The Prosecutor is preparing a similar roster of potential staff for his office in accordance with article 14, paragraph 5, of the statute.

VI. Cases referred to national jurisdictions

45. The Mechanism, pursuant to article 6, paragraph 5, of its statute, is responsible for monitoring cases referred to national courts under Rule 11 bis of the International Criminal Tribunal for Rwanda, with the assistance of international and regional organizations and bodies. On 1 July 2013, the Mechanism will assume a similar responsibility in relation to cases referred by the International Tribunal for the Former Yugoslavia.

46. Two cases before the Tribunal, *Bucyibaruta* and *Munyeshyaka*, were referred to France in November 2007 and remain pending before the French judiciary. The Mechanism has approached an international organization to assist in monitoring these two cases and is pursuing a partnership in this regard. Pending the conclusion of these arrangements, a trial monitor of the Tribunal was selected to prepare an initial, baseline report on each of the two cases during a mission in May 2013. These monitoring reports will be filed in the official case record.

47. The trial in the first case transferred to Rwanda by the Tribunal, *Uwinkindi*, is expected to commence later in 2013, in Kigali. The pretrial proceedings have been monitored on an interim basis by trial monitors of the Tribunal. Monitoring reports are filed in the official case record, and the public reports are available from the website of the Mechanism. Negotiations with the African Commission on Human and Peoples' Rights regarding monitoring are continuing.

48. In May 2013, the Appeals Chamber of the International Criminal Tribunal for Rwanda affirmed the referral of another case, *Munyagishari*, to Rwanda. Monitoring arrangements for this case are being planned.

49. Pursuant to the statute of the Mechanism, if it is clear that the conditions for referral are no longer being met in a particular case and if it is in the interests of justice, a referral order may be revoked and the case tried by the Mechanism.

VII. Enforcement of sentences

50. In accordance with article 25 of the statute of the Mechanism, on 1 July 2012 its President assumed jurisdiction over enforcement issues related to the Mechanism and the International Criminal Tribunal for Rwanda, including authority to designate enforcement States, to supervise the enforcement of sentences and to decide on requests for pardon or commutation of sentence for convicted persons already

serving their sentences. On 1 July 2013, the President of the Mechanism will assume similar responsibility for enforcement issues related to the International Tribunal for the Former Yugoslavia.

51. The Mechanism relies on the cooperation of States for the enforcement of its sentences. Sentences are served in Member States that have concluded enforcement of sentence agreements. Agreements concluded by the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia remain in force for the Mechanism. The Mechanism is also actively engaged in securing additional agreements for the enforcement of sentences in order to increase its enforcement capacity, and welcomes the cooperation of States in this regard.

52. Currently, persons convicted by the International Criminal Tribunal for Rwanda are serving their sentences in Mali (17 convicted persons) and Benin (13 convicted persons). One additional convicted person is being held at the United Nations Detention Facility in Arusha, awaiting transfer to an enforcement State. The Registrar's consultations with potential enforcement States in regard to this individual are ongoing, pursuant to the Practice Direction on the procedure for designation of the State in which a convicted person is to serve his or her sentence of imprisonment (MICT/2).[4]

53. Consistent with a best practice followed by the International Criminal Tribunal for Rwanda which conducted regular visits to the prisons in Mali and Benin, the Registrar undertook a second mission to these countries in November 2012. In addition, the Mechanism engaged the services of an independent expert in prison management to assess the current status of the enforcement of the sentences handed down by the Tribunal and to develop context-based recommendations. The Mechanism is reviewing the expert's recommendations and will implement them, as appropriate.

54. The Mechanism has continued to seek advice from the Department of Safety and Security and the Designated Official in Mali on the security situation in Mali and is closely monitoring the security situation of persons convicted by the Tribunal and serving their sentences in that country.

VIII. Archives and records

55. In accordance with article 27 of its statute, the Mechanism is responsible for the preservation and management of the archives of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, as well as access issues. Both Tribunals, however, are responsible for first preparing their records for transfer to the Mechanism. Pursuant to paragraph 2 of article 27, the archives of the International Criminal Tribunal for Rwanda are located in Arusha, and the archives of the International Tribunal for the Former Yugoslavia are located in The Hague.

56. The archives of the Tribunals contain materials concerning investigations, indictments and court proceedings and work in respect of the detention of accused persons, protection of witnesses and enforcement of sentences, as well as documents from States, other law enforcement authorities, international and non-governmental

[4] Available at www.unmict.org/files/documents/practice_directions/pd_mict2_en.pdf.

organizations and the general public. The materials consist of documents, maps, photographs, audiovisual recordings and objects. The Mechanism has been tasked with preserving these materials and facilitating the widest possible access to them while ensuring the continued protection of confidential information, including information concerning protected witnesses.

57. As part of its planning to assume the management of these materials pending their preparation by the Tribunals, the Mechanism established the Mechanism Archives and Records Section.

58. The Mechanism Archives and Records Section continues to offer guidance in the preparation of the records of the Tribunals. To this effect, the Section has issued a standard for the preparation and transfer of digital records, which parallels the standard on preparation of physical records that was issued previously.

59. The Section also continues to review and develop record-keeping policies and guidelines for the Mechanism on various aspects of records management, including the operation of the centres at which these records will be preserved. With respect to the preservation of the digital archives, the Section is developing a trusted digital repository designed to ensure secure storage for these records, enabling their long-term preservation and access to them by current and future generations.

60. At The Hague branch, the Mechanism Archives and Records Section has assumed responsibility for the central records centre of the International Tribunal for the Former Yugoslavia. In Arusha, physical custody of the records of the International Criminal Tribunal for Rwanda remains with that Tribunal pending completion of a small interim records centre within the premises shared by the Mechanism and the Tribunal. Once construction of the permanent premises is completed, the archives of the Tribunal and of the Arusha branch of the Mechanism will be rehoused in a dedicated storage space at that location.

IX. Cooperation of States

61. Pursuant to article 28 of the statute of the Mechanism, States are required to cooperate with the Mechanism in the investigation and prosecution of persons covered under article 1 thereof, as well as with orders and requests for assistance in relation to cases before the Mechanism. The Mechanism, like the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, is dependent on the cooperation of States.

62. The arrest and surrender of the remaining fugitives is a priority of the Mechanism. As described above, the Mechanism requires the full cooperation of States in relation to the ongoing fugitive tracking operations being conducted by the Prosecutor and reiterates the appeals made in this respect by the International Criminal Tribunal for Rwanda to the relevant States.

63. The Mechanism has been engaged with the Government of Rwanda on a number of issues. In December 2012, at the invitation of the Rwandan authorities, the President made his first official visit to that country. The President met with relevant Rwandan officials and with employees of the Mechanism based in Kigali, and also provided a briefing to the diplomatic community. In addition, the Prosecutor, the Registrar and staff of the Registry have made a number of visits to Kigali to facilitate cooperation on various issues.

X. Assistance to national jurisdictions

64. The Mechanism routinely receives requests from national authorities for assistance in relation to national investigations, prosecutions and trials of individuals charged in relation to the genocide in Rwanda. The Mechanism has continued to consider such requests for provision of assistance to national courts, including requests for evidence and/or variation or rescission of protective measures for witnesses, as well as requests to question detained persons. From 1 July 2013, the Mechanism will similarly respond to requests for assistance directed to the International Tribunal for the Former Yugoslavia.

XI. External relations

65. The principals and officials of the Mechanism have provided briefings regarding the work of the Mechanism to Member States and have engaged in discussions with interested groups on its mandate and priorities.

66. The Mechanism's website (www.unmict.org) explains its mandate and provides essential information about its functions and operations. The website is now available in four languages (English, French, Kinyarwanda and Bosnian-Serbian-Croatian) to ensure that information on the Mechanism is more accessible to individuals in Rwanda and the former Yugoslavia. The website also features links to the public records databases of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, as well as links to all Mechanism public filings. Additional material related to witness protection and the tracking of fugitives is being developed, as is a comprehensive web page aimed at providing guidance for national authorities and others who are seeking access to materials of the Mechanism, the International Criminal Tribunal for Rwanda or, in the near future, the International Tribunal for the Former Yugoslavia.

67. The Mechanism has begun to share its experience and best practices with organizations and government agencies in the Great Lakes Region. On 7 May 2013, the Registry hosted a capacity-building workshop with a delegation from the Kenya Witness Protection Agency. The workshop covered a variety of issues related to witness protection and support, including prerequisites and measures for the protection of witnesses, institutional and judicial capacity for implementation and enforcement, courtroom facilities, and challenges in providing protection and support to victims and witnesses in international and national contexts.

XII. Conclusion

68. Consistent with Security Council resolution 1966 (2010) and its mandate, the Mechanism has commenced its work in Arusha. Its second branch, located in The Hague, will be established in the near future. The Mechanism has received extensive cooperation and assistance from the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, and other offices and organizations, including the Office of Legal Affairs. Throughout, the Mechanism has remained mindful of the Security Council's injunction that it be a small and efficient organization, and it will continue to take steps to ensure the fulfilment of its mandate consistent with this injunction.

Annex II

[Original: English and French]

Progress report of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Justice Hassan Bubacar Jallow, for the period from 15 November 2012 to 23 May 2013

I. Introduction

1. The present report, which covers the period from 15 November 2012 to 23 May 2013, is the second to be submitted by the Prosecutor of the Mechanism for International Criminal Tribunals pursuant to paragraph 16 of Security Council resolution 1966 (2010) and article 32, paragraph 2, of the statute of the Mechanism.

II. Background

2. On 22 December 2010, the Security Council adopted resolution 1966 (2010), by which it established the International Residual Mechanism for Criminal Tribunals. In doing so, the Council acknowledged the contributions made by the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda to international criminal justice and accountability for serious international crimes, and reaffirmed the necessity that all persons indicted by the two Tribunals be brought to justice. Thus, the Mechanism is tasked with continuing the jurisdiction, rights and obligations and essential functions of both the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda after the completion of their respective mandates. In this regard, the Council emphasized that the Mechanism should be a small, temporary and efficient structure. The Mechanism comprises two branches. One branch, which deals with the functions inherited from the International Criminal Tribunal for Rwanda, commenced operations in Arusha, United Republic of Tanzania, on 1 July 2012. The other branch will be located in The Hague and, as at 1 July 2013, will assume responsibility for the functions and activities devolving from the International Tribunal for the Former Yugoslavia. By resolution 2038 (2012), the Security Council appointed the Prosecutor of the International Criminal Tribunal for Rwanda, Justice Hassan Bubacar Jallow, as Prosecutor of the Mechanism with effect from 1 March 2012.

III. Office of the Prosecutor, Arusha branch

3. The Arusha branch of the Office of the Prosecutor of the Mechanism is fully functional and has, since the previous reporting period, been discharging its mandate with respect to both core and ad hoc activities. These activities include the tracking of fugitives, rendering of assistance to national authorities, monitoring of cases referred to national jurisdictions, updating of fugitive files in anticipation of arrest, and prosecution of an appeal and related litigation before the Mechanism Appeals Chamber. Throughout the reporting period, the Office of the Prosecutor of

the Mechanism has benefited immensely from the support of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda in ensuring a smooth transition of functions and activities. Similarly, the Prosecutor has received the cooperation of the principals of the International Tribunal for the Former Yugoslavia and of the Mechanism in planning for the commencement of operations of the Office of the Prosecutor at The Hague branch of the Mechanism on 1 July 2013, and in ensuring a seamless transition.

IV. Staffing

4. Since the submission of the previous progress report (S/2012/849, annex II), all but one of the 14 core staff of the Office of the Prosecutor at the Arusha branch have been appointed by the Registrar and have assumed office, with the remaining position under active recruitment and the incumbent expected to be in place by June 2013. The staff on board consists of three Investigators, one Crime Analyst and two Language Assistants, all six of whom are based in Kigali, and one Senior Legal Officer, one Legal Officer, one Legal Adviser, one Administrative Officer, one Documents Control Assistant and two Administrative Assistants, all stationed in Arusha. In addition, the Prosecutor has designated three other staff of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda to formally carry out similar duties for the Office of the Prosecutor of the Mechanism during their respective tenures at the Tribunal. These include one Special Assistant to the Prosecutor, one Investigator and one Documents Control Assistant. In order to ensure a smooth transition of functions and activities, this staff complement has been supported, where necessary, by 52 Professional staff members of the Office of the Prosecutor of the Tribunal, designated by the Prosecutor under article 14, paragraph 3, of the statute of the Mechanism, as an interim measure.

5. Following the delivery of the trial judgement in the case of *The Prosecutor* v. *Augustin Ngirabatware* on 21 February 2013, an ad hoc appeals team consisting of one Senior Appeals Counsel, one Appeals Counsel, one Assistant Appeals Counsel and one Associate Appeals Counsel was recruited to assume primary responsibility for handling the appeal against judgement and sentence before the Mechanism Appeals Chamber. The Prosecutor is also preparing a roster of potential staff for his Office in the event of an arrest and subsequent trial, in accordance with article 14, paragraph 5, of the statute of the Mechanism.

V. Ad hoc functions

A. Fugitive tracking and trial readiness

6. Pursuant to Security Council resolution 1966 (2010), the responsibility of tracking the remaining International Criminal Tribunal for Rwanda fugitives devolved to the Mechanism on 1 July 2012, with the arrest and prosecution of the three most wanted being a key priority of the Office of the Prosecutor of the Mechanism. The Office is also required, under article 28, paragraph 3, to provide assistance, where appropriate, in tracking the other six fugitives whose files were referred to Rwanda.

7. In this regard, the Office of the Prosecutor has intensified efforts to track the three most wanted fugitives, namely, Félicien Kabuga, Protais Mpiranya and Augustin Bizimana, with a particular focus on the Great Lakes and Southern African regions. The Office of the Prosecutor continues to receive the support of the International Criminal Police Organization (INTERPOL), the United States Department of Justice through its Rewards for Justice programme, international organizations and a number of Member States in its efforts in respect of these three top-level fugitives. The Office will continue its contacts with Kenya and Zimbabwe and requests the Security Council to call upon all States in the Great Lakes Region to cooperate with the Tribunal.

B. Appeal proceedings

8. The return of the written trial judgement in the International Criminal Tribunal for Rwanda case of *The Prosecutor* v. *Augustin Ngirabatware* on 21 February 2013 generated the first appeal by the Mechanism against conviction and sentence. On the same day, the Trial Chamber of the International Criminal Tribunal for Rwanda also issued a decision on allegations of contempt in the *Ngirabatware* case and issued an order in lieu of an indictment against two individuals, which was referred to the Mechanism for the conduct and completion of proceedings. The Office of the Prosecutor of the Mechanism recruited an ad hoc appeals team to prosecute this appeal and also to litigate the substantial motion practice generated by the contempt cases. The ad hoc appeals team continues to receive the full support of the Office of the Prosecutor of the Tribunal, which was handling the matter in a dual capacity until the ad hoc team was in place.

VI. Continuing functions

A. Assistance to national jurisdictions

9. The servicing of foreign requests for assistance was formally transferred to the Mechanism as of July 2012. The staff of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda continued to discharge this duty until the appointment of the core staff of the Mechanism in November 2012. Since then, the Office of the Prosecutor of the Mechanism has responded to 35 requests for assistance from 11 Member States and international organizations. The Prosecutor intends to issue in the near future a regulation governing the requests submitted to his Office and will make guidelines available on the Mechanism's website to assist foreign authorities seeking to access the confidential material held by the Tribunal and the Mechanism in accordance with the President's Practice Direction dated 23 April 2013 (MICT/8).[1]

B. Preservation and management of archives

10. On 2 July 2012, the Prosecutor of the Mechanism handed over to its Registrar an archive of 27 completed prosecution case files. The full archives of the Office of

[1] Available at www.unmict.org/files/documents/practice_directions/pd_mict8_en.pdf.

the Prosecutor of the International Criminal Tribunal for Rwanda are expected to be transferred to the Office of the Prosecutor of the Mechanism upon completion of all appeals and related litigation before the Tribunal. In the meantime, the Office of the Prosecutor has full access to the active records of the Office of the Prosecutor of the Tribunal, which will in due course be transferred to the former, while the materials of the Tribunal Office which are no longer in active use will be transferred to the archives of the Mechanism on an ongoing basis.

C. Monitoring of cases transferred to national jurisdictions

11. The monitoring function for cases transferred by the International Criminal Tribunal for Rwanda to national jurisdictions became the responsibility of the Mechanism as at 1 July 2012. The monitors appointed by the Prosecutor of the Tribunal to monitor the cases of *Munyeshyaka* and *Bucyibaruta*, transferred to France in 2007, and the case of *Uwinkindi*, transferred to Rwanda in 2012, now report to the Prosecutor of the Mechanism. In respect of the cases transferred to France, enquiries are now reported to be substantially complete and the cases are expected to be placed before the Trial Chamber by June 2013. Similarly, it is anticipated that the *Uwinkindi* case, which is in pretrial litigation in Rwanda, will be expeditiously concluded once the trial commences later in 2013.

12. On 3 May 2013, the Tribunal Appeals Chamber affirmed the referral of the case of *Munyagishari* to Rwanda for trial, subject to amendment of the indictment. This was the last and only outstanding Rule 11 bis referral application by the Prosecutor in respect of a detainee of the International Criminal Tribunal for Rwanda. In anticipation of the physical transfer of the accused from Arusha to Rwanda, the Prosecutor will appoint a monitor for that case as well. In addition, the Prosecutor will be expected to appoint monitors for the cases of the six fugitives that have been transferred to Rwanda (*Sikubwabo*, *Kayishema*, *Ntaganzwa*, *Ndimbati*, *Ryandikayo* and *Munyarugarama*) as and when the fugitives are arrested.

D. Establishment of The Hague branch of the Mechanism

13. With the establishment of The Hague branch of the Mechanism scheduled for 1 July 2013, the Prosecutor commenced the planning and preparatory work in consultation with the Prosecutor of the International Tribunal for the Former Yugoslavia and the Registrar of the Mechanism in order to ensure a smooth transition of functions and activities. This involved initiating the process of recruitment of the core staff of the Office of the Prosecutor, agreeing on the dual-capacity support expected by the Office of the Prosecutor of the Mechanism from the Office of the Prosecutor of the Tribunal in the current biennium and the workload and resource requirements for the next biennium.

14. In this regard, the five core posts for the Office of the Prosecutor at The Hague branch of the Mechanism are under active recruitment, with the expectation that the Senior Legal Officer, Legal Adviser, Administrative Assistant and two Document Managers will be in place by July 2013. In addition, it was agreed that, effective 1 July 2013, all appeals staff of the Office of the Prosecutor of the Tribunal would be designated to work in two capacities, on an interim basis, to prosecute the *Šešelj* and *Prlić* appeals before the Mechanism Appeals Chamber until resources were

available in the next biennium for the recruitment of two ad hoc appeals teams. Finally, the resource requirements for the biennium 2014-2015 were incorporated into the budget submission of the Office of the Prosecutor of the Mechanism, prepared in consultation with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the International Criminal Tribunal for Rwanda.

VII. Conclusion

15. The period under review has been one of much activity and progress towards firmly establishing the Arusha branch of the Office of the Prosecutor of the Mechanism, while simultaneously planning the commencement of operations of The Hague branch of the Office on 1 July 2013. The experience gained from overcoming the challenges in setting up the Arusha branch has no doubt informed the planning and preparatory work for The Hague branch. The commitment and cooperation extended to the Office of the Prosecutor of the Mechanism by the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia has been instrumental in ensuring a relatively smooth transition of functions and activities, and the Prosecutor expresses particular gratitude for the support of the staff of the Tribunals who have and continue to work in the two capacities as and when required.

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Letter dated 23 May 2013 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council

I have the honour to transmit herewith the assessments of the President and the Prosecutor of the International Criminal Tribunal for Rwanda on the implementation of the completion strategy of the Tribunal, pursuant to Security Council resolution 1534 (2004), as at 10 May 2013 (see enclosure).

I should be grateful if you would transmit the enclosed report to the members of the Security Council.

(*Signed*) Judge Vagn **Joensen**
President

13-34567 (E) 100613

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Report on the completion strategy of the International Criminal Tribunal for Rwanda (as at 10 May 2013)

[Original: English and French]

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Introduction

1. In 2003, the International Criminal Tribunal for Rwanda ("the Tribunal") formalized a strategy ("the completion strategy") to achieve the objectives of completing investigations by the end of 2004, all trial activities at first instance by the end of 2008, and all of its work in 2010, in accordance with Security Council resolution 1503 (2003).

2. The present report, in conjunction with previous submissions to the Security Council pursuant to resolution 1534 (2004), provides an overview of the Tribunal's progress to date in implementing the completion strategy, which has been continuously updated and developed since 2003.[1]

3. As at 10 May 2013, the Tribunal has completed its work at the trial level with respect to all of the 93 accused. This includes 55 first-instance judgements involving 75 accused, 10 referrals to national jurisdictions (four apprehended accused and six fugitive cases), three top-priority fugitives whose cases have been transferred to the International Residual Mechanism for Criminal Tribunals ("the Residual Mechanism"), two withdrawn indictments and three indictees who died prior to or in the course of trial. The final substantive trial judgement was delivered as projected in December 2012, and appellate proceedings have been concluded in respect of 46 persons. All but one of the remaining appeals will be completed in 2014. Owing to delays in translation and other factors as described herein, the final appeal (in the *Butare* case) is now projected to be completed by July 2015.

4. In the previous reporting period, the Tribunal had referred the second case of an accused in its custody (Bernard Munyagishari) to Rwanda for trial. This decision was upheld by the Appeals Chamber in a decision rendered on 3 May 2013, and the transfer of Mr. Munyagishari to Rwanda is expected imminently.

5. While nine accused persons indicted by the Tribunal remain at large, the responsibility for tracking and trials of all nine remains with Rwanda and the Residual Mechanism, since the cases of six of the nine fugitives have been referred to Rwanda, while the remaining three will stand trial before the Residual Mechanism when they are arrested. Preservation of evidence proceedings under rule 71 bis have been completed for all three who will be tried before the Residual Mechanism, ensuring that the trials may proceed smoothly whenever the arrests are made.

6. The transition from the Tribunal to the Residual Mechanism is now well under way. Most judicial and prosecutorial functions have already been handed over to the Residual Mechanism, and administrative services are being provided to it by the Tribunal and the International Tribunal for the Former Yugoslavia, with the transition beginning to take place on a continuous basis as the Residual Mechanism prepares to support itself in various administrative functions.

[1] See the reports submitted to the United Nations on 14 July 2003 and 29 September 2003, in connection with General Assembly resolution 57/289 and the Tribunal's request to increase the number of ad litem judges sitting "at any one time". Completion strategy reports were submitted to the President of the Security Council on 30 April 2004, 19 November 2004, 23 May 2005, 30 November 2005, 29 May 2006, 8 December 2006, 31 May 2007, 20 November 2007, 13 May 2008, 21 November 2008, 14 May 2009, 9 November 2009, 25 May 2010, 1 November 2010, 12 May 2011, 4 November 2011, 11 May 2012 and 5 November 2012.

I. Activities in Chambers

A. Activities at first instance

7. The present report covers the period from 6 November 2012 to 10 May 2013. At the beginning of the reporting period, the remaining workload of the Tribunal to be completed at first instance was one trial judgement. That judgement was delivered on 20 December 2012. As a result of this, all substantive trial work is now complete, and the Tribunal remains seized of only three contempt of court/false testimony cases where orders in lieu of indictments have been confirmed before 30 June 2012.

8. The major challenge for the coming months remains the preparation of archives for the handover to the Residual Mechanism amidst the continued departure of key staff. Despite persistent staffing challenges which led to delays as described herein, the present report shows that the Tribunal delivered its final trial judgement as projected. Going forward, there remain only appellate work and the continuation of the transition to the Residual Mechanism.

1. Judgement (annex I)

9. On 20 December 2012, a section of the Trial Chamber composed of Judges Sekule, presiding, Bossa and Rajohnson rendered oral judgement in the *Ngirabatware* case, sentencing Augustin Ngirabatware to 35 years' imprisonment after finding him guilty of genocide, direct and public incitement to commit genocide and rape as a crime against humanity. The accused was the Minister of Planning during the relevant period. Throughout the course of the trial, a total of 27 prosecution witnesses and 35 defence witnesses were heard by the Chamber. The written judgement was filed on 21 February 2013. On the same date, the Chamber rendered a decision ordering prosecution by the Residual Mechanism of two individuals for contempt of the Tribunal for alleged improper conduct related to witnesses in the *Ngirabatware* trial. The decision has been challenged in the Residual Mechanism by those accused of contempt. The outcome of the pending motions will determine whether the prosecutions will move forward.

2. Referrals pursuant to rule 11 bis (annex II)

10. As is shown on the chart in annex II to the present report, four cases of accused indicted by the Tribunal who are in custody have been referred to national jurisdictions. Two were referred to France and two to Rwanda. The monitoring of all referred cases now falls under the Residual Mechanism; however the Tribunal has agreed to continue to administer the monitoring of the *Uwinkindi* trial in Rwanda, which began prior to 1 July 2012, until the end of 2013 or until completion of the trial, if sooner, including providing the assistance of legal officers from the Registry.

3. Other work in the Trial Chamber

Special depositions pursuant to rule 71 bis

11. Evidence preservation was concluded in the previous reporting period in the cases against fugitives Protais Mpiranya, Augustin Bizimana and Félicien Kabuga. The evidence preserved will assist in the trials of the fugitives before the Residual Mechanism when each is arrested.

Office of the President

12. During the reporting period, the President's judicial responsibilities included issuance of orders and decisions on matters that included a claim for compensation and, in his double-hatted role as duty judge of the Residual Mechanism for the Arusha branch, matters on State cooperation and witness protection review, and in relation to the fugitive cases referred to the Residual Mechanism and Rwanda. Furthermore, he continued to oversee the administration of the monitoring of the *Uwinkindi* case in Rwanda.

13. During the reporting period, the President consistently held meetings and will continue to work closely with the Archives Unit of the Tribunal to ensure a smooth transition of all Tribunal trial and Office of the President records to the Residual Mechanism. The President has also taken a very active role in joint efforts with the Registrar to relocate the acquitted and released convicted persons who remain in the United Republic of Tanzania, as detailed in section II.D below.

14. The President chaired meetings of the Joint Coordination Council of the Tribunal and the Residual Mechanism on 2 February and 3 May 2013. The Joint Coordination Council is composed of the Presidents, Registrars and Prosecutor of the Tribunal and the Residual Mechanism. During the meetings, coordination of the Residual Mechanism and Tribunal policies related to the transition and coordinated budgeting for 2014-2015 were discussed, and important policy decisions were reached which have had a positive impact on the transition process.

4. Status of fugitives (annex III)

15. As at 10 May 2013, nine fugitives indicted by the Tribunal remain at large. However, none remain within the Tribunal's purview of responsibility, since six of the nine cases have been referred to Rwanda, and the remaining three top priority fugitives will be tried by the Residual Mechanism.

B. Activities at the Appeals Chamber (annex IV)

16. As at 10 May 2013, appellate proceedings have been concluded in respect of 46 persons. During the reporting period, the Appeals Chamber delivered one appeal judgement concerning two persons, in the *Mugenzi & Mugiraneza* case. The Appeals Chamber also rendered a final decision upholding the Trial Chamber's referral of the *Munyagishari* case to Rwanda, one decision concerning a post-appeal request, and 47 pre-appeal orders and decisions.

17. The Appeals Chamber has met its accelerated projection of delivering one judgement concerning two persons in the first quarter of 2013. Two more appeal cases concerning five persons are expected to be disposed of by the end of 2013, three appeal judgements concerning four persons will be delivered in 2014, and the remaining appeal judgement concerning six persons will be delivered by July 2015 (see annex IV).

18. In its judgement of 4 February 2013, the Appeals Chamber reversed the convictions of Justin Mugenzi and Prosper Mugiraneza entered by Trial Chamber II on 30 September 2011. The Appeals Chamber heard the appeals in October 2012 and, in its judgement, found that the Trial Chamber had erred in convicting Mugenzi and Mugiraneza of conspiracy to commit genocide and of direct and public

incitement to commit genocide. The Appeals Chamber ordered their immediate release.

Pending appeals from judgement: six cases

19. The trial judgement in the *Ndindiliyimana et al. (Military II)* case was rendered on 17 May 2011 and issued in writing on 17 June 2011. All five parties (the four convicted persons and the prosecution) appealed. The briefing concluded in May 2012, and the appeals were heard from 7 through 10 May 2013.

20. The trial judgement in the *Nyiramasuhuko et al. (Butare)* case was rendered on 24 June 2011 and issued in writing on 14 July 2011. All seven parties (the six convicted persons and the prosecution) appealed. Due to their inability to work in English, the language in which the trial judgement was issued, all six convicted persons were granted extensions of time to file their appeal briefs after receiving the French translation of the trial judgement. The convicted person who is the subject of the prosecution's appeal was also granted an extension of time to file his response brief after receiving the translation. The initial completion projections in this case were based on the original notices of appeal and the expectation that the French translation of the trial judgement would be available at the end of August 2012. However, the French translation of the trial judgement was completed and served on the parties only at the beginning of February 2013, occasioning a five-month delay in the filing of the appeal briefs of the six convicted persons and of the response brief to the prosecution's appeal. In addition, four of the six convicted persons have requested and have been granted leave to expand the scope of their appeals by adding new allegations of errors. As a result, the prosecution received an extension of time to respond to the expanded appeals. The briefing of the appeal submissions in this case is therefore not likely to be completed before September 2013. The new projection of delivery of the appeals judgement in July 2015 reflects those delays in the briefing schedule as well as the fact that the scope of the appeals in this case has expanded since the initial notices of appeal upon which the earlier projection was based.

21. The trial judgement in the *Ndahimana* case was rendered on 17 November 2011 and issued in writing on 18 January 2012. Both the defence and prosecution filed their notices of appeal in February 2012. The briefing in this case concluded in February 2013, and the appeals were heard on 6 May 2013.

22. The trial judgement in the *Karemera & Ngirumpatse (Government I)* case was rendered on 21 December 2011 and issued in writing on 2 February 2012. All three parties (both convicted persons and the prosecution) filed their notices of appeal in March 2012, and the briefing concluded in March 2013. The appeals are presently being prepared for a hearing.

23. The trial judgement in the *Nzabonimana* case was rendered on 31 May 2012 and issued in writing on 25 June 2012. Both the defence and prosecution filed notices of appeal, and the briefing is in progress.

24. The trial judgement in the *Nizeyimana* case was rendered on 19 June 2012 and issued in writing on 22 June 2012. Both the defence and prosecution filed notices of appeal, and the briefing is in progress.

II. Measures implementing the completion strategy

25. The following section supplements prior reports and highlights essential elements of the Tribunal's efforts to comply with its completion strategy.

A. Judicial calendar and management of proceedings

26. The Tribunal has completed all trial work, as projected, before the end of 2012. During the reporting period, all projections for the delivery of trial and appeal judgements have been met. The notice of appeals in the *Ngirabatware* case have been filed with the Residual Mechanism as expected. The pending Tribunal appeals remain on track to be completed by the end of 2014, save for the *Butare* appeal, for which judgement delivery is now expected in July 2015.

27. The Tribunal continues to make progress towards completing its mandate. As detailed below in section III, all organs are working diligently to facilitate the closing of the Tribunal and the transition to the Residual Mechanism.

28. The transfer of judicial functions to the Residual Mechanism is nearly complete. Monitoring mechanisms are in place for the cases transferred to Rwanda pursuant to rule 11 bis and are in the process of being handed over to the Residual Mechanism. The cases of six fugitives have been referred to Rwanda, while the remaining three will stand trial before the Residual Mechanism when they are arrested. Preservation of evidence proceedings under rule 71 bis have all been completed. It is vital that the Tribunal work to retain necessary staff until the expiry of contracts in line with downsizing plans in its remaining time so that it may complete all necessary work within current projections.

B. Judges and staff management

1. Judges

29. Currently, 11 permanent judges are working in the Appeals Chamber and one ad litem judge (the President) is working in the Trial Chamber of the Tribunal.

30. During the reporting period, Judges Solomy Balungi Bossa (Uganda) and Mparany Richard Rajohnson (Madagascar) left the Tribunal after completion of their final case. Judge William H. Sekule (United Republic of Tanzania) was redeployed to the Appeals Chamber in March 2013, bringing the number of permanent judges who sit on the Appeals Chamber from the Tribunal to six.

31. On 12 December 2012, the Security Council adopted resolution 2080 (2012), extending the terms of the Tribunal's Appeals Chamber Judges until the end of 2014 or until completion of the cases to which they are assigned, if sooner. The Tribunal wishes to express its gratitude to the Security Council for passing this resolution in a timely manner, thus helping the Tribunal to continue to meet its completion strategy targets.

2. Staff management and budget

32. The downsizing process that began in 2008-2009 continues in 2012-2013 with the proposed abolishment of 212 posts, representing 34 per cent of the authorized

2010-2011 level. A mechanism designed to identify in a fair and transparent manner which individual staff members are to be separated as part of the downsizing process has been put in place in consultation with the Staff Association.

33. The downsizing process continues to have an impact on managers' ability to perform their regular functions, which consequently has an impact on programme delivery. This is compounded by the fact that the reduction in staff is causing managers and staff to be required to perform an increasing range of functions. The Tribunal continues to receive the support of the Department of Management of the Secretariat, in particular the Office of the Controller and the Office of Human Resources Management, to implement mitigating strategies in line with the applicable Staff Rules and Regulations of the United Nations.

34. At this stage of the operations of the Tribunal, the biggest human resources challenge is to provide adequate support to staff during the downsizing process in their transition from the Tribunal to other careers. The lack of a structured and sustainable arrangement for the Secretariat to reintegrate staff of the Tribunal into the wider United Nations workforce, despite their experience and qualifications, has an impact on the ability of the Tribunal to retain the relatively small number of remaining staff required to stay on until completion of the mandate. In addition, the inability to offer contracts of more than one year requires the Tribunal to recruit staff through the use of temporary vacancy announcements for which not many staff with experience are willing to give up existing fixed-term contracts. The Tribunal will continue to explore with the Office of Human Resources Management the possibility, through the use of flexibility within the Staff Rules, to assist in meeting those challenges to prevent any further delay in the completion of the mandate of the Tribunal.

C. Work of the Office of the Prosecutor

35. The Office of the Prosecutor has continued to focus its efforts on completing ongoing appeals and monitoring the referral of cases to national jurisdictions. In addition, and in the light of Security Council resolution 1966 (2010), the Office of the Prosecutor has also focused on transitional activities that will ensure a smooth transfer of functions to the Residual Mechanism, both branches of which will be fully operational effective 1 July 2013.

1. Workload

36. During the reporting period, the Office of the Prosecutor concluded the trial phase of the Tribunal with oral judgement returned on 20 December 2012 and written judgement entered on 21 February 2013 in the case of *The Prosecutor v. Augustin Ngirabatware*. The accused was sentenced to 35 years' imprisonment for genocide, direct and public incitement to commit genocide, and rape as a crime against humanity. A notice of appeal has been filed and will be heard by the Appeals Chamber of the Residual Mechanism.

37. The conclusion of the trial phase of the Tribunal has resulted in a substantial increase in the workload of the Appeals and Legal Advisory Division, which has been litigating 32 appeals arising from nine cases. As noted in the previous report of the Office of the Prosecutor, eight cases have now been referred, pursuant to rule 11 bis, to Rwanda for trial (Jean Uwinkindi, Charles Sikubwabo, Fulgence

Kayishema, Ladislas Ntaganzwa, Aloys Ndimbati, Charles Ryandikayo, Phénéas Munyarugarama and Bernard Munyagishari) and two cases (Laurent Bucyibaruta and Wenceslas Munyeshyaka) have been referred to France. With the return of the Munyagishari Appeals Chamber decision on 3 May 2013, which affirmed the referral of this case to Rwanda for trial, all of the referral orders are now final. Following the return of the Appeals Chamber judgement, Bernard Munyagishari filed a motion to stay his physical transfer to Rwanda; the Prosecutor has opposed that motion, and a decision is anticipated shortly. The Office of the Prosecutor will continue to monitor progress in all referred cases.

38. In addition to handling ongoing litigation related to the referral of cases to national jurisdictions, the Appeals and Legal Advisory Division prepared a legal opinion to the Prosecutor in connection with the *Ngirabatware* Trial Chamber judgement. On 4 February 2013, the Office of the Prosecutor also received the judgement of acquittal of the Appeals Chamber in connection with the appeals filed by Justin Mugenzi and Prosper Mugiraneza. The briefing in connection with the prosecution appeal filed in the *Butare* case, which involves six defendants, closed at the end of March 2013; the briefing in connection with the six *Butare* defence appeals started in April 2013 and will continue through at least mid-2013. The briefing in the appeals filed by the prosecution and defence in the case against Édouard Karemera and Matthieu Ngirumpatse closed in February 2013, but substantial litigation is anticipated to continue prior to the scheduling of this case for oral argument later this year. The briefing in the appeals filed by the prosecution and defence in the case against Grégoire Ndahimana also closed in early 2013. On 6 May 2013, the Office of the Prosecutor presented oral argument in the *Ndahimana* case. From 7 May to 10 May 2013, the Office of the Prosecutor presented oral arguments in the eight appeals (four prosecution and four defence) that comprise the *Military II* case. Final judgements in both cases are anticipated by the end of 2013 or early in 2014.

39. During the reporting period, the Appeals and Legal Advisory Division continued to handle other pending post-conviction matters, including an application for compensation for damages filed by Protais Zigiranyirazo, who was acquitted by the Appeals Chamber in November 2009. By its decision dated 26 February 2013, the Appeals Chamber denied Zigiranyirazo's application for leave to appeal the Trial Chamber's denial of his application for compensation for damages. The Appeals and Legal Advisory Division also continued to litigate an application for review filed by Juvénal Kajelijeli in connection with the 2005 judgement of the Appeals Chamber. A decision on this application is anticipated later this year.

40. The Information and Evidence Support Section has continued to support appeals teams in complying with the ongoing obligation of the Office of the Prosecutor to disclose potentially exculpatory evidence to the defence. The Section assists the appeals teams of the Appeals and Legal Advisory Division in formulating relevant search criteria and conducting electronic searches of the evidence database of the Office of the Prosecutor. The Division and the Section plan to jointly undertake a comprehensive review of cases that have gone to final judgement to identify any potentially exculpatory material that has not yet been disclosed. This ongoing review of disclosure obligations is mandatory under rule 68 of the Rules of the Tribunal and is essential to the smooth transition of functions to the Residual Mechanism. All records of the Investigations Division have been transferred from Kigali to Arusha, United Republic of Tanzania. In addition, the Information and

Evidence Support Section has also continued to assist the Office of the Prosecutor of the Residual Mechanism in conducting electronic searches on the various databases of the Office of the Prosecutor in response to requests for assistance by national authorities.

41. During the reporting period, the Office of the Prosecutor has started work on the Prosecutor's closing report to the Secretary-General and other essential legacy products that have been initiated over the years. The Office actively contributed to the finalization and launching of a Best Practices Manual jointly prepared by the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone, the Special Tribunal for Lebanon and the Extraordinary Chambers in the Courts of Cambodia on the investigations and prosecution of international crimes. Two substantial lessons learned manuals were prepared, respectively, on the investigation and prosecution of sexual and gender-based violence and on the management of victims and witnesses of sexual violence crimes in situations of armed conflict. Those manuals were subjected to peer review at an international workshop organized by the Office of the Prosecutor in Kigali in collaboration with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the Open Society Justice Initiative, the East African Community and the Government of Rwanda. Other legacy projects of this nature continue to be prepared on tracking and arrest of fugitives, the recording of the course of the 1994 Rwandan genocide on the basis of facts established by the judicial process of the Tribunal as well as the challenges in the referral under rule 11 bis of the Tribunal rules of cases to national jurisdictions for trial.

2. Cooperation of the Office of the Prosecutor with Member States

42. Member States have continued to intensify their cooperation with the objective of bringing to trial, within their national jurisdictions, the Rwandan suspects appearing on the list of wanted fugitives of the International Criminal Police Organization (INTERPOL). In this context, the Office of the Prosecutor continued to strengthen its cooperation with diverse intergovernmental organizations, such as INTERPOL and its national offices, and to provide mutual legal assistance and information to national prosecuting authorities, including Rwanda. The responsibility for the servicing of foreign requests for assistance formally moved to the Residual Mechanism from 1 July 2012, and core staff of the Residual Mechanism assumed responsibility for it on 1 November 2012. Staff of the Office of the Prosecutor of the Tribunal continued to assist in discharging this responsibility in their capacity as double-hatted staff in order to ensure a smooth and secure transition. Although the number of the requests for assistance received by the Prosecutor remained at a level similar to that of previous reporting periods, the substance of said requests was more voluminous during the reporting period. A total of 35 requests were received from 11 Member States and international organizations.

3. Staffing

43. With the completion of the prosecution workload and transfer of several functions to the Residual Mechanism, the Prosecution Division has closed and its remaining staff have separated. With the return of Appeals Chamber judgements and completion of other core work, such as rule 11 bis litigation and disclosure updates, an initial reduction in current staffing levels of the Office of the Prosecutor of the

Tribunal is anticipated with effect from 1 January 2014, followed by a larger reduction in June 2014, when additional appeals are completed. By the expected date of delivery of the Appeals Chamber judgement in the *Butare* case, the Prosecutor anticipates closing the Office of the Prosecutor of the Tribunal and shifting any remaining functions to the Office of the Prosecutor of the Residual Mechanism either as a core activity or through the double-hatting of functions.

D. Cooperation between Member States and the Tribunal

44. The Office of the Registrar continued to act as the diplomatic arm of the Tribunal as well as the channel of communication among the organs of the Tribunal. As such, the Office of the Registrar maintained high-level diplomatic contacts with Member States, international organizations, and non-governmental organizations (NGOs). During the reporting period, the Office of the Registrar transmitted 66 notes verbales and other correspondence related to the operations of the Tribunal, in particular, to secure support and cooperation from Member States.

45. Without the enhanced cooperation of Member States in certain areas, it would be extremely difficult for the Tribunal to complete its mission. Cooperation ought not to be limited solely to prosecutions, but should also include any requests for assistance made by the Tribunal in order to accomplish its mission, such as the relocation of acquitted and released persons. Although the Tribunal recognizes that article 28 of its Statute does not formally obligate Member States to cooperate in matters of relocation, the lack of such obligation has caused the Tribunal to be in an increasingly dire situation with respect to helping people to resume their lives after being detained by the Tribunal and then released in the United Republic of Tanzania. Over a long period of time, the Registrar has made concerted efforts to relocate those persons outside of the United Republic of Tanzania, but with very little success. With the limited time left before the closure of the Tribunal, and considering the large number of persons who need to be relocated, it was agreed that the President would also use his good offices and assist, especially with diplomatic efforts, to relocate those persons with the hope that all relocation can be concluded before the Tribunal closes.

46. In this regard, the President and the Registrar continue to deploy all possible efforts to find host countries for the seven acquitted persons and three persons released after completion of their sentences who remain in safe houses in Arusha under the Tribunal's protection ("the acquitted and released persons"), one of whom was acquitted in 2004. These 10 individuals remain on Tanzanian territory without proper immigration status and are therefore unable to move freely. Efforts during the reporting period included a mission to France in December 2012 by the Acting Registrar to further sensitize the French authorities to the issue of the acquitted and released persons. Upon assuming his new functions in January 2013, the newly appointed Registrar also travelled on mission to Dar-es-Salaam and Kigali in February 2013. In Dar-es-Salaam, the Registrar called upon the Government of the United Republic of Tanzania to consider permanently hosting any of those persons. In Kigali, the Registrar requested the diplomatic support of the Government of Rwanda in facilitating the Tribunal's efforts to overcome the challenges being faced with respect to relocation. The President also undertook extensive endeavours on relocation during the reporting period, including taking the lead with respect to efforts to garner the support of the International Organization for Migration (IOM)

and the Office of the United Nations High Commissioner for Refugees (UNHCR) through discussions with senior officials in Geneva in April 2013. The President and Registrar also met with the President of the International Criminal Court in The Hague in April 2013, where discussion on the similar difficulties of the International Criminal Court with respect to relocation of acquitted persons resulted in an agreement to coordinate efforts between the Tribunal and the International Criminal Court to find a sustainable solution.

47. The President and the Registrar have also developed a joint action plan for relocation which will be submitted shortly to the Security Council as well as to IOM, UNHCR and other United Nations agencies in order to formally seek their support in this important issue. As the report details, the challenge to relocation is the result of the absence of a formal mechanism to secure the support of Member States to accept those persons within their territories, and the Statute of the Tribunal is unfortunately silent in that respect. The Tribunal considers that relocation in order to allow persons to resume their lives after being acquitted or released after serving a sentence imposed by an international criminal tribunal is a fundamental expression of the rule of law and is concerned about the consequences of failing to fulfil its obligations in this respect. In the light of the imminent closure of the Tribunal and the insufficient level of voluntary cooperation of Member States, the Tribunal calls once again upon the assistance of the Security Council to find a sustainable solution to this issue.

48. The report on the work of the Office of the Prosecutor above highlights close cooperation with regard to the arrest of fugitives, preparation of referrals to national jurisdictions and assistance to national prosecuting authorities.

E. Outreach and capacity-building

49. During the reporting period, the Tribunal continued to implement major outreach programmes. In this task, the offices of the Tribunal in Arusha, the Information and Documentation Centre in Kigali ("Umusanzu") and the 10 additional provincial mini-information centres located across Rwanda continued to play a key role in dissemination of information, improved communication and access to the jurisprudence of the Tribunal and other legal materials. In Rwanda, the centres were visited daily by members of the Rwandan judiciary, students, researchers and the public who were provided with informative materials and with access to briefings, training, library services, video screenings and the Internet. The Arusha office attracted a total number of 650 visitors, including 169 VIPs, the Kigali Umusanzu Centre received almost 40,000 visitors, and the Tribunal provincial mini-information centres in Rwanda attracted approximately 25,000 visitors. Those visitors included high-level United Nations and government officials, academics, civil society members, non-governmental organizations and the general public.

50. The Tribunal, through the Office of the Prosecutor, hosted a three-day international workshop in late November 2012 in Kigali, Rwanda on the prosecution of crimes of sexual and gender-based violence. The workshop was made possible with the partnership of UN-Women and the generous support of the Open Society Justice Initiative, the East African Community and the Government of Rwanda.

51. In February and March 2013 the Tribunal also co-hosted a pan-African lessons learned conference in Arusha to commemorate the tenth anniversary of the

International Criminal Court. The conference was convened by Africa Legal Aid in cooperation with the International Legal Assistance Consortium and the International Bar Association.

52. The Tribunal also continued to disseminate information to all national, regional and international stakeholders, and organized several awareness-raising exhibitions and workshops in Arusha, Dar-es-Salaam, Nairobi and Kigali. Also, more than 2,500 copies of the Tribunal's cartoon book entitled "100 Days in the Land of the Thousand Hills", which informs and teaches youth about genocide, its causes and dynamics, and in particular about the Rwandan genocide and the concept of "never again" becoming a reality, were distributed in Burundi, Kenya, Rwanda, Uganda and the United Republic of Tanzania. This was part of a major Youth Sensitization Project conducted by the Tribunal and supported by Germany and the United Nations Office in Nairobi in the Great Lakes Region, which also included an essay and drawing competition involving more than 100 schools.

53. During the reporting period, the Outreach Team of the Tribunal in Kigali also engaged in several outreach activities. The team continued countrywide implementation of the genocide awareness-raising workshops, funded by the Department of Public Information of the Secretariat, covering 36 secondary schools and 4 demobilization, solidarity and reintegration camps in six districts. Approximately 34,800 teachers, students and ex-combatants participated in the programme.

54. The Tribunal also organized a training workshop for legal professionals in Rwanda, with the aim of further strengthening the Rwandan justice sector in such areas as investigations, witness protection, evidence and information management, and oral and written advocacy skills. This training was organized to equip the Rwandan judiciary with the necessary tools for successfully taking up cases that have been referred by the Tribunal. An example of the initiatives that the Tribunal conducted is an online legal research training for law students and lecturers from the Law Faculty of the Kigali Independent University, members of the Rwandan Institute for Legal Practice and Development, and national prosecutors from the Rwandan National Public Prosecution Authority. The Tribunal also continued its youth outreach by collaborating in the hosting of the annual all Africa international humanitarian law moot court competition run by the International Committee of the Red Cross during the last week of November 2012.

55. Finally, the Tribunal sent two staff members of the Registry to the Community Court of Justice of the Economic Community of West African States (ECOWAS) in Abuja from 24 to 28 September 2012 to assist the Community Court of Justice in reorganizing its Registry. As a follow-up to that, 20 staff members of the Community Court of Justice, comprising registrars, court bailiffs, court recorders and administrative assistants, among others, visited the Tribunal in two groups from 15 to 28 November 2012 and from 26 November to 7 December 2012 to undergo training at the Tribunal. The training was aimed at sharing the best practices developed by the Tribunal with staff members of the Community Court of Justice. Similarly, the Tribunal will send one staff member of the Registry to Port of Spain from 10 to 25 May 2013 to share its best practices developed in the area of court management with the Registry of the Caribbean Court of Justice. The Tribunal also held discussions with the African Court on Human and Peoples' Rights in February 2013 and explored ways of cooperation and sharing of best practices with the institution.

III. Transition to the International Residual Mechanism for Criminal Tribunals

56. In compliance with Security Council resolutions 2054 (2012) and 2080 (2012), section III details the efforts made during the reporting period in respect of the transition to the Residual Mechanism, including projections, with projected dates where possible, for the handover of functions.

A. Judicial functions

57. Security Council resolution 1966 (2010) and the transitional arrangements annexed thereto set out mandates for a coordinated transition of the judicial functions of the Tribunal to the Residual Mechanism on 1 July 2012 or as soon thereafter as possible.

58. Pursuant to article 2 of the transitional arrangements, any appeals filed with respect to Tribunal decisions or judgements after 1 July 2012 fall under the responsibility of the Residual Mechanism. As a result, the Residual Mechanism has competence over one appeal from a Tribunal judgement, in the *Ngirabatware* case. In accordance with the statute of the Residual Mechanism and the transitional arrangements, the Residual Mechanism is also now responsible for requests to review Tribunal judgements, trials for contempt of court or false testimony where the indictment is confirmed on or after 1 July 2012, and the trials of the three of the top priority Tribunal fugitives once they are arrested. The Arusha branch Duty Judge of the Residual Mechanism (double-hatted Tribunal President Joensen) has already handled several confidential motions with respect to the three Residual Mechanism fugitive cases. Supervision of the enforcement of sentences has also already been handed over to the President of the Residual Mechanism.

59. The Residual Mechanism has also been handling requests for assistance from national authorities and motions related to contempt proceedings before it. So far the Duty Judge has been assigned to handle each request as it has been received by the President of the Residual Mechanism, and has issued several decisions on the respective issues.

B. Office of the President

60. Pursuant to article 6 of its statute, on 1 July 2012 the Residual Mechanism assumed responsibility for issues related to cases referred by the Tribunal to national courts, such as the monitoring of cases (with the assistance of international or regional organizations) and consideration of revocation. Given that the resources in relation to the *Uwinkindi* case are in the Tribunal budget, it was agreed that during the current biennium, while the President of the Residual Mechanism would retain all judicial functions related to this transferred case, the Tribunal Registrar and President would continue to oversee the administrative functions of monitoring that case, in close consultation with the Residual Mechanism. The *Munyagishari* case was referred to Rwanda by a Tribunal Trial Chamber in June 2012, and that decision was confirmed by the Appeals Chamber on 3 May 2013. As soon as a small number of remaining matters are sorted out, the President expects the immediate transfer of Bernard Munyagishari to Rwanda, and the monitoring of that case will be the

responsibility of the Residual Mechanism. The Residual Mechanism has also assumed responsibility for monitoring of the two Tribunal cases referred to France. Therefore, by the end of 2013 at the latest, all monitoring of referred cases will fall solely under the responsibilities of the Residual Mechanism.

61. As described above in section II.D, the Tribunal continues to work hard to relocate individuals acquitted and those persons who have completed their sentences in the United Republic of Tanzania in order that they may resume their lives. The United Republic of Tanzania has been most gracious in allowing those individuals to remain in Arusha under the protection of the Tribunal while it seeks their relocation to third countries. For as long as such persons remain in the United Republic of Tanzania under the care of the Tribunal, the Tribunal will also consider it incumbent to find countries to which to relocate those persons. In this respect, and in order to complement the tireless efforts over many years which have been undertaken by the Registrar in the light of the imminent closure of the Tribunal, the President is assisting with diplomatic efforts to relocate those persons with the hope that all relocation can be concluded before the Tribunal closes.

C. Registry

62. Upon the coming into existence of the Arusha branch of the Residual Mechanism, a number of functions were immediately transferred to it, including the enforcement of sentences, provision of assistance to national authorities, the protection of witnesses in completed cases, and the tracking of the remaining three top priority fugitives. It was understood that other functions would be transferred gradually to the Residual Mechanism once they are no longer critical for the completion of the work of the Tribunal. These include such administrative functions as the provision of health services and security, financial management, and the management of human resources. The Registrars of the Tribunal, the International Tribunal for the Former Yugoslavia and the Residual Mechanism recently held a fruitful retreat, in the context of the preparation of their respective budgets for the 2014-2015 biennium, with the view to, among other issues, mapping out the time frames for the transfer of those functions to the Residual Mechanism. It is expected that those time frames will be clearer once the current budgeting process is completed. However, to the extent possible, projected dates already agreed upon are provided below.

63. During the reporting period, pursuant to article 20 of the statute of the Residual Mechanism and article 5 of the transitional arrangements, the Tribunal has continued to hand over confidential files of witnesses in completed cases to the Residual Mechanism. A joint Tribunal-Residual Mechanism team has been formed to ensure that witness files in ongoing cases are prepared and transferred to the Residual Mechanism as soon as each ongoing case is completed. Since the function of protection of witnesses in ongoing cases has remained with the Tribunal, tasks related to the protection and care of witnesses in ongoing cases will remain with the Tribunal and will be transferred immediately upon completion of each ongoing case. The Tribunal continued with the preparation of those records for transfer to and management by the Residual Mechanism. It is working very closely with the Residual Mechanism in this regard, especially to ensure that the records are prepared in a manner that will facilitate their effective management by the Residual Mechanism after transfer. In spite of the vast challenges presented by the volume

and nature of the records as well as the fact that some of the records are still active and will remain so until the completion of the *Butare* appeal in 2015, the Tribunal hopes that the preparation and transfer of its records will be completed before it closes. In the meantime, as detailed in section III.F below, the temporary storage facility for the prepared records, to be used while the Residual Mechanism waits for the completion of the permanent purpose-built building, is almost complete, and it is expected that it will be in use by June 2013.

64. The Language Services Section of the Tribunal continues to provide assistance to the Arusha branch of the Residual Mechanism in regard to the translation of judicial filings and official documents, in spite of the large number of appeals-related documents and appeals judgements of the Tribunal which remain to be translated. The Tribunal will continue to translate all documents required for judicial processes, including, where necessary, to ensure that fair trial rights are observed, and will also continue wherever possible to translate documents for archiving purposes until its closure upon delivery of the *Butare* appeal. Therefore, since the Tribunal will no longer have staff to translate documents after the *Butare* appeal is delivered, the Residual Mechanism will translate the appeal judgement in the *Butare* case.

D. Division of Administrative Support Services

65. The Division of Administrative Support Services has continued to provide administrative support to all organs of the Tribunal and, in conjunction with the International Tribunal for the Former Yugoslavia, to the Residual Mechanism. The following activities took place during the reporting period with respect to the downsizing of the Tribunal.

66. The Human Resources and Planning Section continues to offer training and counselling services in addition to the administration of staff entitlements. The section is continuing to prepare staff for the transition to other jobs after the Tribunal. In addition, the section is continuously reviewing and updating the separation process in order to hasten the receipt of end-of-service benefits to staff who are separating. The Career Resource Centre is continuing to provide training on the preparation of curricula vitae, the use of the United Nations Inspira recruitment system and preparation for interviews.

67. The Security and Safety Section continued to support the Tribunal to ensure the safety and security of its staff, premises, assets and operations through the implementation of United Nations Security Management System policies. Close collaboration was promoted with host government authorities in Rwanda and the United Republic of Tanzania. The section continued to monitor security trends and to ensure appropriate measures against threats existing in the operating environment. The section contributed to planning activities for the commencement of the Residual Mechanism in accordance with arrangements agreed between the two institutions.

68. The General Services Support Section continued with the services already provided, but at a much scaled down rate. The section was reorganized to rationalize the functions of the various units. The Assets Management Unit has been strengthened to help accelerate the disposal of assets. Efforts to scale down the provision of services in-house have continued, the latest being the introduction of

fuel cards in place of the operation of a fuel depot. A number of offices formerly occupied by Tribunal staff have been returned to the Arusha International Conference Centre in the light of the reduced number of staff. This has made it possible to consolidate most of the sections in the Kilimanjaro wing of the Arusha International Conference Centre compound. In Kigali, the Residual Mechanism and the remaining Tribunal staff have been accommodated in new premises. Write-off of surplus items as part of the liquidation plan is continuing in earnest.

69. The Finance and Budget Section has been preparing payments for separating staff while monitoring the rational use of funds in accordance with the approved budget. The section is also leading the Tribunal's preparation for the implementation of the International Public Sector Accounting Standards in 2014.

70. The Information Technology Services Section continues to support the downsizing activities. This entails support of staff office relocation, liquidation of old assets and the provision of supplementary services and training to mitigate the effect of skills attrition among business process owners and operators. Lower cost technology was introduced in Kigali to scale proportionately to the much reduced total staffing level of the Tribunal and the Residual Mechanism in that office. Some services, such as security radio network coverage, will be outsourced to another United Nations organization in Kigali, such as Department of Safety and Security/United Nations Development Programme.

71. The Health Services Unit continues to provide basic and specialized health services to its clients, including the staff members of the Tribunal and the Residual Mechanism and their dependants; detainees and released and acquitted persons; witnesses and victims; interns and visitors; and non-United Nations staff, such as labourers, contractors and cleaners. Hospitalization is outsourced from facilities in Arusha and the relevant authorized locations for medical evacuations. The unit will continue to: provide its clients with medical care on a daily basis; provide vaccinations, counselling and health education; and provide medico-administrative duties.

72. All the administrative and support services described above are projected to remain the responsibility of the Tribunal until its closure upon delivery of the *Butare* judgement in 2015, after which the Residual Mechanism has agreed to provide administrative support to the liquidation team of the Tribunal.

E. Office of the Prosecutor

73. Since the launching of the Residual Mechanism on 1 July 2012, a number of designated professional staff of the Office of the Prosecutor of the Tribunal have been double-hatting for activities related to the Residual Mechanism in order to gradually make it fully operational. In this regard, Tribunal staff have double-hatted to support tracking operations of the Office of the Prosecutor of the Residual Mechanism, the work within the immediate office of the Prosecutor, the processing of requests for assistance by national authorities, and the handling of Residual Mechanism appeals. The Appeals and Legal Advisory Division of the Tribunal, for example, conducted the appeal before the Appeals Chamber of the Residual Mechanism in respect of the decision by the Tribunal to transfer the fugitive case of *Munyarugarama* to Rwanda for trial and continues to provide support to the ad hoc Residual Mechanism team prosecuting the *Ngirabatware* appeal and related

litigation. Most recently, the Appeals and Legal Advisory Division prepared a legal opinion and appeals readiness report in connection with the *Ngirabatware* case, which is now pending before the Residual Mechanism. An ad hoc team of staff of the Residual Mechanism has now been recruited to assume primary responsibility for defending the *Ngirabatware* trial judgement on appeal. In addition, in the past several weeks, the Appeals and Legal Advisory Division of the Tribunal, in a double-hatting capacity, filed a motion for reconsideration and interlocutory appeal in connection with the decision of the Residual Mechanism Single Judge holding that the Tribunal Trial Chamber lacked jurisdiction to initiate contempt proceedings against Deogratias Sebureze and Maximilien Turinabo.

74. While staff of the Residual Mechanism already have access to the relevant records of the Office of the Prosecutor of the Tribunal, the full archives of the latter are expected to be transferred to the Office of the Prosecutor of the former upon completion of all Tribunal appeals and related litigation. In the meantime, as the archives of the Residual Mechanism gradually become fully established, materials no longer in active use will be transferred on an ongoing basis, and Tribunal staff will be double-hatting. Coordination and close cooperation with the International Tribunal for the Former Yugoslavia and the Tribunal continued to ensure that the Residual Mechanism operates smoothly despite its current limited resources.

75. The full complement of staff of the Office of the Prosecutor of the Residual Mechanism, pursuant to ongoing recruitment, is expected to be in office by mid-June 2013.

F. Archives

76. Despite the challenges related to staff retention and recruitment associated with the upcoming closure of the Tribunal, the work of preparing the records of the Tribunal for transfer to the Residual Mechanism has continued with vigour. The rehousing of original materials and the verification of hard copy judicial records against the associated metadata and electronic versions of the records has been completed for 60 per cent of all judicial records. The approval of the Records Retention Schedule of the Tribunal has greatly facilitated the work related to the disposal of the other substantive and administrative records of the Tribunal. During the reporting period, the compliant disposition of records, including the separation of inactive records from active records and the development of inventories, has commenced for most substantive offices of the Tribunal. In addition to the ongoing activities associated with the preparation of the Office of the Prosecutor and judicial records for transfer to the Residual Mechanism, several other offices are well advanced in the disposal and preparation process, including the United Nations Detention Facility, the Defence Counsel and Detention Management Section, the Office of the President and the Human Resources Planning Section. To date, 1,400 linear metres (approximately 40 per cent of the records to be transferred) have been rehoused, boxed and listed and are fully prepared for transfer to the custody of the Residual Mechanism. With the exception of some final clean-up work, the redaction of all master audio recordings has been completed. The focus of the audiovisual redaction process has shifted to the video recordings identified as possessing the highest external access value, and it is expected that over 10,000 hours of proceedings will have been redacted by the end of 2014.

77. The construction and installation of equipment in the temporary archives storage facility, comprised of three records repositories, is nearing completion. The air conditioning and shelving units have been installed, and the Tribunal is looking at the acquisition of fire suppression systems. Upon completion of the temporary facility, the handover process will commence; the transfer process will then be conducted in a phased manner, as the records are prepared. The target date for the completion of the handover process is December 2014. However, since current projections indicate that some of the records will still be active for some time beyond the end of 2014, the transfer of all records to the Residual Mechanism is now expected to be completed in 2015, bearing in mind that the records which are still in active use in support of the functions of the Tribunal will remain its responsibility.

Conclusion and updated prognosis regarding the implementation of the completion strategy

78. During the reporting period, judicial and legal activity was focused mostly on completion of the final trial judgement and ongoing work on the appeals. The focus of administrative energies has remained on downsizing and providing the support necessary for the Residual Mechanism, while still providing continued support for the remaining judicial and legal work of the Tribunal. Current projections for the transfer of administrative services to the Residual Mechanism indicate that it should begin to reduce its reliance on administration by the Tribunal in 2014.

79. In December 2012, the Tribunal rendered its final trial judgement, leaving only the appeals to be completed. It has also already completed all evidence preservation hearings and has disposed of all referral applications, resulting in zero remaining substantive trials under the auspices of the Tribunal. The handover of judicial responsibilities to the Residual Mechanism is complete, with the first appeal currently under way. The Tribunal has also commenced the process of transferring records and archives to the Residual Mechanism, and the smooth transition of prosecutorial tasks remains on track.

80. While it must be recalled that possibilities exist for contempt/false testimony cases to be heard by the Tribunal in the three cases where indictments were confirmed before 1 July 2012, each could commence swiftly upon arrest and be completed quickly. Thanks to the continued hard work and dedication of the staff, the Tribunal completed all substantive trial activities before the end of 2012, as projected. Moreover, except for the slip in projection for completion of the *Butare* judgement, which was caused by delays in the translation of the trial judgement and other documents related to the appeal that the defence is legally entitled to receive in a language that the accused can understand, all other appeal judgements remain on track for completion before the end of 2014, and the *Butare* appeal judgement is projected to be delivered in July 2015.

81. Since its inception, the Tribunal has sought to contribute to the process of reconciliation in Rwanda by helping to restore a sense of justice and playing a role in the development of a lasting peace in the Great Lakes Region. Rebuilding this sense of justice has paved the way for moving past the events of 1994, and the Tribunal has helped ensure that those events are never forgotten through its outreach and capacity-building initiatives. The transition to the Residual Mechanism, which

is notably tasked with maintaining and furthering the legacy of the Tribunal, marks the etching of a new chapter into the history of international law. The writing of this next chapter has already begun with the work of the International Criminal Court and Special Tribunal for Lebanon. With the impending closure of the ad hoc tribunals, the Residual Mechanism will ensure that their legacy is preserved for posterity and that lessons learned are shared with their successors. Before facing the renewed challenges the next chapter will bring, the Tribunal would, however, be remiss not to underline how far the cooperation of Member States has brought it, the crucial role it has played, and the difficulties that will be faced without reinvigorated efforts in certain areas. The tremendous support of the international community for the Tribunal has enabled it not only to prosecute those most responsible for the Rwandan genocide, but also, in turn, to assist national jurisdictions who are able to complement its work and thereby further strengthen accountability for the most serious crimes under international law. Such empowerment of national institutions has substantiated the Tribunal's commitment towards the implementation of the rule of law, and may ultimately allow for impunity to be successfully challenged in a lasting way at all levels.

Annex I

Trial judgements delivered as at 10 May 2013: 55 judgements concerning 75 accused

Case No.	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Trial judgement*
1	J.-P. Akayesu	*Bourgmestre* of Taba	30 May 1996	I	2 September 1998
2	J. Kambanda	Prime Minister	1 May 1998	I	4 September 1998 (guilty plea)
3	O. Serushago	Businessman, *Interahamwe* leader	14 December 1998	I	5 February 1999 (guilty plea)
4	C. Kayishema	*Préfet* of Kibuye	31 May 1996	II	21 May 1999 (joinder)
	O. Ruzindana	Businessman	29 October 1996		
5	G. Rutaganda	Businessman, SecondVice-President of *Interahamwe*	30 May 1996	I	6 December 1999
6	A. Musema	Businessman	18 November 1997	I	27 January 2000
7	G. Ruggiu	Journalist, Radio-télévision libre des mille collines	24 October 1997	I	1 June 2000 (guilty plea)
8	I. Bagilishema	*Bourgmestre* of Mabanza	1 April 1999	I	7 June 2001
9	G. Ntakirutimana	Doctor	2 December 1996	I	21 February 2003 (joinder)
	E. Ntakirutimana	Pastor	31 March 2000		
10	L. Semanza	*Bourgmestre* of Bicumbi	16 February 1998	III	15 May 2003
11	E. Niyitegeka	Minister of Information	15 April 1999	I	15 May 2003
12	J. Kajelijeli	*Bourgmestre* of Mukingo	19 April 1999	II	1 December 2003
13	F. Nahimana	Director, Radio-télévision libre des mille collines	19 February 1997	I	*Media* case (joinder)
	H. Ngeze	Kangura Editor	19 November 1997		3 December 2003
	J.-B. Barayagwiza	Director, Ministry of Foreign Affairs	23 February 1998		
14	J. Kamuhanda	Minister of Culture and Education	24 March 2000	II	22 January 2004

Case No.	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Trial judgement*
15	A. Ntagerura	Minister of Transport	20 February 1997	III	*Cyangugu* case (joinder) 25 February 2004
	E. Bagambiki	*Préfet* of Cyangugu	19 April 1999		
	S. Imanishimwe	Lieutenant in the Forces armées rwandaises	27 November 1997		
16	S. Gacumbitsi	*Bourgmestre* of Rusumo	20 June 2001	III	17 June 2004
17	E. Ndindabahizi	Minister of Finance	19 October 2001	I	15 July 2004
18	V. Rutaganira	*Conseiller* of Mubuga	26 March 2002	III	14 March 2005 (guilty plea)
19	M. Muhimana	*Conseiller* of Gishyita	24 November 1999	III	28 April 2005
20	A. Simba	Lieutenant-Colonel in the Forces armées rwandaises	18 March 2002	I	13 December 2005
21	P. Bisengimana	*Bourgmestre* of Gikoro	18 March 2002	II	13 April 2006 (guilty plea)
22	J. Serugendo	Technical Director, Radio-télévision libre des mille collines	30 September 2005	I	12 June 2006 (guilty plea)
23	J. Mpambara	*Bourgmestre* of Rukara	8 August 2001	I	12 September 2006
24	T. Muvunyi	Interim Commander, École des sous-officiers	8 November 2000	II	12 September 2006
25	A. Rwamakuba	Minister of Education	7 April 1999	III	20 September 2006
26	A. Seromba	Priest, Kivumu Commune	8 February 2002	III	13 December 2006
27	J. Nzabirinda	Youth organizer	27 March 2002	II	23 February 2007 (guilty plea)
28	J. Rugambarara	*Bourgmestre* of Bicumbi	15 August 2003	II	16 November 2007 (guilty plea)
29	GAA	Witness before Tribunal proceedings	10 August 2007	III	4 December 2007 (contempt of Tribunal)
30	F. Karera	*Préfet* of Kigali	26 October 2001	I	7 December 2007
31	S. Nchamihigo	Deputy Prosecutor of Cyangugu	29 June 2001	III	24 September 2008
32	S. Bikindi	Musician	4 April 2002	III	2 December 2008

Case No.	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Trial judgement*
33	P. Zigiranyirazo	Businessman	10 October 2001	III	18 December 2008
34	T. Bagosora	Director of Cabinet, Ministry of Defence	20 February 1997	I	*Military I* case (joinder) 18 December 2008
	G. Kabiligi	Brigadier-General in the Forces armées rwandaises	17 February 1998		
	A. Ntabakuze	Forces armées rwandaises Battalion Commander	24 October 1997		
	A. Nsengiyumva	Lieutenant-Colonel in the Forces armées rwandaises	19 February 1997		
35	E. Rukundo	Chaplain	26 September 2001	II	27 February 2009
36	C. Kalimanzira	Directeur de Cabinet of the Ministry of the Interior	14 November 2005	III	22 June 2009
37	L. Nshogoza	Former Defence Investigator	11 February 2008	III	2 July 2009 (contempt of court case)
38	T. Renzaho	*Préfet* of Kigali-*ville*	21 November 2002	I	14 July 2009
39	M. Bagaragaza	Director General of Government Office Controlling the Tea Industry	16 August 2005	III	5 November 2009 (guilty plea)
40	H. Nsengimana	Rector, Christ-Roi College	16 April 2002	I	17 November 2009
41	T. Muvunyi	Interim Commander, École des sous-officiers Camp	8 November 2000	III	11 February 2010 (retrial)
42	E. Setako	Lieutenant-Colonel	22 November 2004	I	25 February 2010
43	Y. Munyakazi	*Interahamwe* leader	12 May 2004	I	30 June 2010
44	D. Ntawukulilyayo	*Sous-préfet* of Butare prefecture	10 June 2008	III	3 August 2010
45	G. Kanyarukiga	Businessman	22 July 2004	II	1 November 2010
46	I. Hategekimana	Lieutenant, Commander of Ngoma Camp, Butare	28 February 2003	II	1 December 2010
47	J.-B. Gatete	*Bourgmestre* of Murambi	20 September 2002	III	29 March 2011

Case No.	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Trial judgement*
48	A. Ndindiliyimana	Chief of Staff of Gendarmerie	27 April 2000	II	*Military II* case (joinder) 17 May 2011
	F.-X. Nzuwonemeye	Forces armées rwandaises Battalion Commander	25 May 2000		
	I. Saguhutu	Second-in-Command of Reconnaissance Battalion	28 November 2000		
	A. Bizimungu	Chief of Staff of the Forces armées rwandaises	21 August 2002		
49	P. Nyiramasuhuko	Minister of Family and Women's Affairs	3 September 1997	II	*Butare* case (joinder) 24 June 2011
	A. S. Ntahobali	*Interahamwe* leader	17 October 1997		
	S. Nsabimana	*Préfet* of Butare	24 October 1997		
	A. Nteziryayo	*Préfet* of Butare	17 August 1998		
	J. Kanyabashi	*Bourgmestre* of Ngoma	29 November 1996		
	E. Ndayambaje	*Bourgmestre* of Muganza	29 November 1996		
50	C. Bizimungu	Minister of Health	3 September 1999	II	*Bizimungu et al.* case (joinder) 30 September 2011
	J. Mugenzi	Minister of Commerce	17 August 1999		
	J. Bicamumpaka	Minister of Foreign Affairs	17 August 1999		
	P. Mugiraneza	Minister of Civil Service	17 August 1999		
51	G. Ndahimana	*Bourgmestre* of Kivumu	28 September 2009	III	17 November 2011
52	E. Karemera	Minister of Interior, Vice-President of the Mouvement républican national pour le développement et la démocratie (MRND)	7 April 1999	III	*Karemera et al.* case (joinder — third accused J. Nzirorera died on 1 July 2010) 21 December 2011
	M. Ngirumpatse	General Director at Ministry of Foreign Affairs, President of MRND	7 April 1999		
53	C. Nzabonimana	Minister of Youth in the Interim Government	20 February 2008	III	31 May 2012

Case No.	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Trial judgement*
54	I. Nizeyimana	Second-in-Command, École des sous-officiers	14 October 2009; further appearances 5 March 2010 and 7 October 2010	III	19 June 2012
55	A. Ngirabatware	Minister in the Interim Government	Initial appearance on 9 February 2009	II	20 December 2012

Annex II

Referrals pursuant to rule 11 bis for apprehended accused: 4 cases concerning 4 accused

Case No.	*Name*	*Former title*	*Initial appearance*	*Trial Chamber*	*Status*
56	W. Munyeshyaka	Clergy	Not applicable (arrested in France)	Not applicable	Case transferred to France on 20 November 2007
57	L. Bucyibaruta	*Préfet* of Gikongoro prefecture	Not applicable (arrested in France)	Not applicable	Case transferred to France on 20 November 2007
58	J. Uwinkindi	Pastor, Nyamata	9 July 2010	III	Accused transferred to Rwanda on 19 April 2012
59	B. Munyagishari	Former President of *Interahamwe* for Gisenyi	20 June 2011	III	Motion for referral to a national jurisdiction granted by Trial Chamber on 6 June 2012; appeal decision affirmed Trial Chamber decision to refer on 3 May 2013; transfer to Rwanda expected imminently

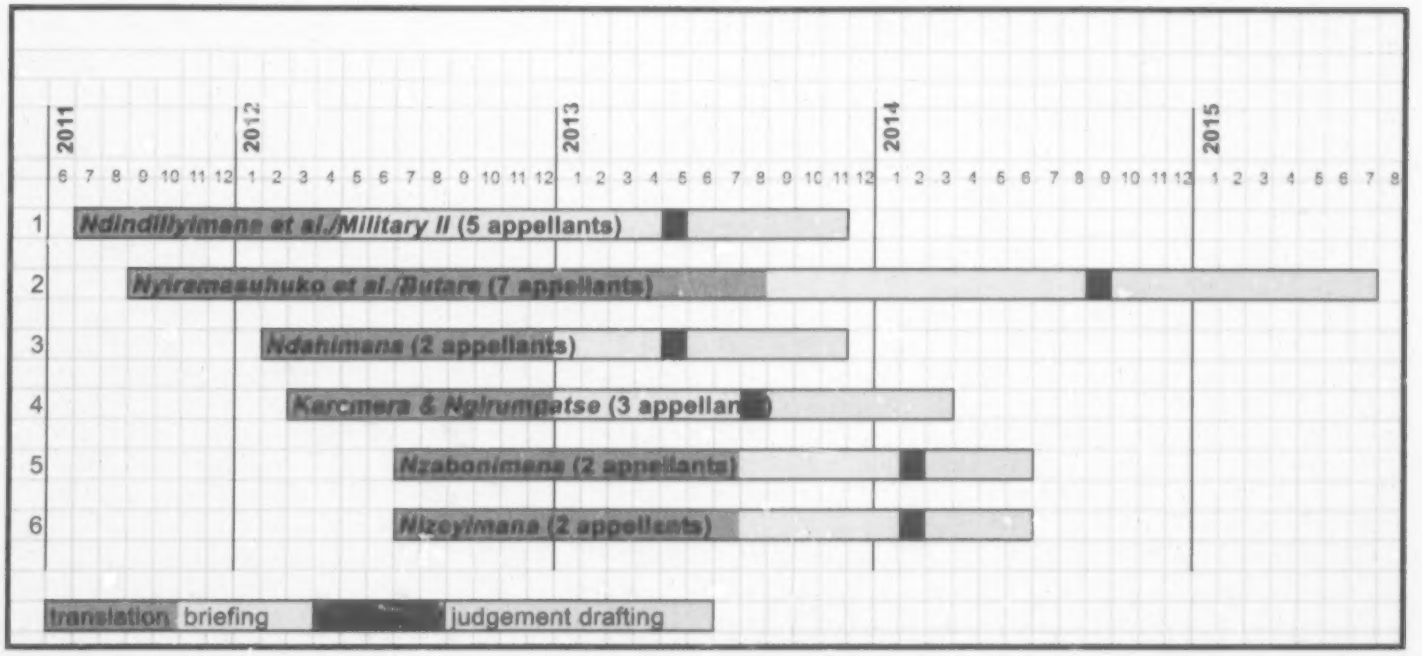
Annex III

Fugitives indicted by the Tribunal

Name	*Status as at 10 May 2013*
Augustin Bizimana	Residual Mechanism will be responsible for trial when arrested
Félicien Kabuga	Residual Mechanism will be responsible for trial when arrested
Protais Mpiranya	Residual Mechanism will be responsible for trial when arrested
Ladislas Ntaganzwa	Fugitive accused case referred to Rwanda
Fulgence Kayishema	Fugitive accused case referred to Rwanda
Charles Sikubwabo	Fugitive accused case referred to Rwanda
Aloys Ndimbati	Fugitive accused case referred to Rwanda
Charles Ryandikayo	Fugitive accused case referred to Rwanda
Phénéas Munyarugarama	Fugitive accused case referred to Rwanda

Annex IV

Projected appeals schedule of the International Criminal Tribunal for Rwanda as at 10 May 2013


2011
2012
2013
2014
2015
6 7 8 9 10 11 12 1 2 3 4 5 6 7 8 9 10 11 12 1 2 3 4 5 6 7 8 9 10 11 12 1 2 3 4 5 6 7 8 9 10 11 12 1 2 3 4 5 6 7 8
1 Ndindiliyimana et al./Military II (5 appellants)
2 Nyiramasuhuko et al./Butare (7 appellants)
3 Ndahimana (2 appellants)
4 Kanyarukiga (1 appellant)
5 Nzabonimana (2 appellants)
6 Nizeyimana (2 appellants)
translation
briefing
judgement drafting